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Report

of

Indian Central Committee

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INTRODUCTION

To His Excellency the Right Hon EDWARD FREDERICK LINDLEY WOOD Baron Irwin of Kirby Underdale G M S I G M I E Viceroy and Governor General of India

YOUR EXCELLENCY,

The Report

Having now completed the task which we were asked to undertake as announced in a communique published in Simla on 25th September, 1928 we beg to present to Your Excellency this Report on the constitutional changes which we recommend for India. We request Your Excellency to take the necessary steps to forward our Report and make it available to the British Parliament We do not desire that our Report should be published as an annexe to the Report of the Statutory Commission Before proceeding with our recommendations we shall first make a few preliminary remarks on the events leading up to the appointment of our Committee and the scope and method of our work

Appointment of the Statutory Commission

2 Section 84A of the Government of India Act of 1919 prescribes the appointment at the expiration of 10 years from the passing of that Act of a Commission for the purpose of inquiring into the working of the system of government set up under the Act and [illegible] n the constitutional char [illegible] The question of advar [illegible] 1921) (? the inquiry came up for serious consideration more than once between 1924 and 1926 under pressure from the Legislative Assembly but it was felt that the conditions requisite for accurate and dispassionate apprisement of the constitutional problem were then lacking By the end of 1927 conditions throughout India were found to be more propitious and on 8th November 1927 Your Excellency announced the decision of His Majesty s Government to constitute a Statutory Commission immediately and at the same time foreshadowed an invitation to the Central Legislature to appoint a Joint Select Committee for the purpose of collaboration with the Statutory Commission It was also suggested that a similar procedure should be adopted by the provincial legislatures

Resentment in India.

3 The announcement in India—long advocated and anxiously awaited—of the appointment of the Statutory Commission aroused a storm of indignation and protest The decision of His Majesty s Government to confine the personnel of the Commission to the members of the two Houses of Parliament was held to constitute an insult to Indians and an arrogant repudiation of the claim which had been put forward that they should be given a predominant voice in the determination of the future

constitution of their country A large body of opinion denounced the appointment of the Commission and expressed their determination to stand aside from its work This attitude found expression in the following resolution passed by the Legislative Assembly on the 18th February 1928 —

> " This Assembly recommends to the Governor General in Council to inform His Majesty's Government that the present constitution and scheme of the Statutory Commission are wholly unacceptable to this House and that this House will therefore have nothing to do with the Commission at any stage and in any form "

4 Four days later the Council of State decided to participate in the labours of the Statutory Commission and this lead was followed subsequently by the provincial councils with one exception namely in the Central Provinces In accordance with this decision the Council of State elected three representatives the Honourable Sir Sankaran Nair Kt C I E the Honourable Sir Arthur Froom, Kt and the Honourable Raja Nawab Ali Khan to sit with the Statutory Commission A fourth member of the Council the Honourable Sardar Bahadur Shivdev Singh Uberoi was nominated by Your Excellency to represent the Sikhs In consequence of the boycott declared by the Assembly Your Excellency nominated five members of the Assembly namely Nawab Sir Zulfiqar Ali Khan Kt C S I Sir Hari Singh Gour Kt Dr Abdulla Suhrawardy Mr Kikabhai Premchand and Rao Bahadur M C Rajah to form with the representative of the Council of State the Indian Central Committee

Appointment of the Indian Central Committee.

5 The functions which this Committee were expected to perform were more precisely described in the letter of Sir John Simon the Chairman of the Statutory Commission to Your Excellency dated the 6th February, 1928 which we quote in extenso in an appendix to our Report The Committee was to sit in " Joint Free Conference " with the Statutory Commission for the purpose of scrutinising and elucidating " from the Indian side on free and equal terms " the memoranda and evidence which would be presented to the Statutory Commission and opportunity was thus to be provided for the " free exchange of views and mutual influence " Finally the Committee was to be entitled to report its conclusions to the Central Legislature Sir John Simon added — " There are well known statutory means by which documents emanating from the Joint Committee and presented to the Central Legislature can be forwarded and made available to the British Parliament " We lay particular stress on these words for it is not too much to say that but for the assurance that the report of the Indian Central Committee would be made available to the British Parliament independently of the report of the Statutory Commission the Council of State would not have decided to co operate with the latter body and

Functions of the Committee.

the boycott by the Central Legislature would have been complete. The scope of our task, therefore, is that laid down for the Statutory Commission, namely, to inquire—

"into the working of the system of government, the growth of education, and the development of representative institutions in British India, and matters connected therewith and to report as to whether and to what extent it is desirable to establish the principle of responsible government or to extend modify, or restrict the degree of responsible government then existing therein including the question whether the establishment of second chambers of the local legislatures is or is not desirable."

Method of Inquiry in India

6 We must now refer briefly to the method which was adopted to carry out the functions assigned to us. The Committee met for the first time for preliminary discussion at Simla on the 26th September, 1928 and later met the Statutory Commission at Poona, where the sittings of the Joint Free Conference commenced on the 12th October. From this date until the 18th March, we travelled through India and Burma visiting in turn each of the provincial capitals and holding sittings at Poona, Lahore, Karachi, Peshawar, Delhi Lucknow, Patna, Shillong, Calcutta, Rangoon Mandalay, Madras and Nagpur. In all the provinces, save in the Central Provinces we had the co-operation of committees appointed by the provincial legislatures. We held final sittings in Delhi between the 21st March and the 4th April, when members of the Central Government gave us the benefit of their views and a final conference was held with the provincial committees.

in London

7 We re-assembled in London on the 7th June, and during the following six weeks we held joint sittings with the Statutory Commission for the elucidation of questions connected with the Army in India the Secretary of State and other matters. We had the privilege of hearing the views of Members of the Council of India and of certain of the senior Permanent Officials in explanation of memoranda which had been prepared by them, while Field Marshal Sir Claude Jacob Secretary of the Military Department of the India Office Major General J R E Charles, Director of Military Operations and Intelligence War Office, and Lieutenant General Sir Andrew Skeen late Chief of the General Staff in India kindly attended to give the Conference the benefit of their opinions on military problems. We had the further advantage of hearing the views of Sir Basil Blackett on Finance problems of Sir A Selby Bigge on Education, and of Sir Michael O'Dwyer and Sir R Craddock on the questions connected with Services. Sir A Chatterjee High Commissioner for India also appeared before the Conference.

Material at our disposal

8 While it is true to state that a voluminous mass of memoranda was presented to us and a large number of witnesses came forward to give evidence before the Joint Free Conference we were conscious throughout our tour in India that a large and

influential section of Indian opinion was deliberately boycotting the Commission. An important consequence of this boycott must be referred to. It is generally correct to state that the Indian Central Committee required little study of unofficial memoranda, little examination of witnesses, to make them acquainted with the views of their countrymen as a whole or with the demands of particular communities or sections of opinion. It is equally true to remark that we were sufficiently well acquainted with the ideas of that section of Indian opinion which refrained from co-operating with the Commission. This, however, was not the case with our English colleagues. They can have had few opportunities of acquainting themselves directly with the sentiments of this important group. In their case the effect of the boycott cannot have been other than to leave them with an incomplete picture of the feelings and sentiments of the Indian people. On the other hand the Statutory Commission had ample opportunity of reading publications, statements and speeches of every shade of opinion in India. It might also justly be claimed that its members, who are men with practical constitutional experience, have had the advantage of surveying some of the most acute of the Indian constitutional problems from a detached and dispassionate point of view. The labours of the Statutory Commission and of the Indian Central Committee have thus been complementary and mutually interdependent. Neither is complete without the other.

9 We are conscious of many imperfections in the presentation of our case, but limitations of time combined with the [illegible] intricacies of the problems with which we [illegible] have rendered it a matter of much difficulty [illegible] of the considerations which have led us to our [illegible] conclusions and the arguments by which we support [illegible] in a form that shall be at the same time sufficiently concise to be readily intelligible, and sufficiently full to present an adequate picture. It is our earnest hope that in a combination of the ideas of the two bodies which for twelve months have laboured side by side, may be found the solution of one of the gravest and most intricate problems which it has ever fallen to the lot of man to solve.

Part I
HEADS OF INQUIRY

CHAPTER I

Working of the System of Government

The existing system

10 The reformed Government constituted under the Government of India Act came into being in 1921 It is not our intention to review in detail the course of events since that date but to refer briefly to some of the more salient features of dyarchy and to point out some of the more important consequences which resulted from it We must first give a short account of the political situation at the time when the Government of India Act came into force for a description of the atmosphere in which the new Governments began to operate is essential to an understanding of the subject

Political situation in India at the date of the Montagu Chelmsford Report

11 When the Montagu Chelmsford Report first appeared Indian opinion as a whole was critical but not hostile Delegations from the leading political organisations of the country appeared before the Joint Select Committee and the evidence given by them shows that although exception was taken to the provisions by which the element of responsibility introduced into the Councils was hedged round with safeguards there was no desire to boycott or to wreck the Reforms Indeed the moderates or Liberals who included many of the best respected names in Indian politics enthusiastically welcomed them The nationalists although emphatic in proclaiming the inadequacy of the measure of responsibility introduced in the provinces showed no desire to keep away from them It is known that Mr B G Tilak who was then the leader of the advanced nationalists was himself prepared to stand for a constituency This was the position in 1919 when the Reforms were on the anvil Within a year, however the whole political atmosphere underwent a complete change and goodwill and friendliness gave place to suspicion distrust and racial hatred which combined to produce a situation of serious unrest

Events leading to change of atmosphere.

12 The events which contributed to bring about this change were —

(i) The enactment of the Rowlatt Bill in the teeth of the united opposition of all Indian elected members of the Imperial Council

(ii) The incidents in the Punjab leading up to and resulting from the shooting at Jallianwala Bagh and

(iii) The Treaty of Sevres

The Rowlatt Bill led to intense agitation which combined with Muslim indignation over the Treaty of Sevres resulted in a

serious outbreak in the Punjab necessitating the proclamation of martial law. Certain incidents which occurred under the military regime particularly at Jallianwala Bagh increased the tension. Added to this the arrest and detention of political suspects without trial in Bengal in 1924 however necessary that may have been combined to create an atmosphere in which the Reforms had little chance of success with all parties.

13. The system of government which came to be launched under such unfavourable auspices was itself complicated and unnatural. The Provincial Governments consisted of two halves; on the one side was a Cabinet consisting of Ministers responsible to Legislature the majority of the members of which were elected representatives of their constituents, and on the other an Executive Council appointed by the Secretary of State and not responsible to the Legislature. Half the members of the Executive Council consisted of permanent officials, the other half of non-officials who might be and in some cases were, adherents of the party in opposition in the Legislature. At the head of the administration stood the Governor armed with extensive powers to veto or pass legislation and in some cases to restore rejected items of expenditure against the will of the legislature. *Working of the System of Government Dyarchy*

14. In selecting the Ministers Governors of different provinces adopted different methods. In Madras the Governor adopted the ordinary constitutional procedure of sending for the leader of the majority party in the legislature and asking him to form a government. Elsewhere Ministers were selected largely on a consideration of their personal influence in the legislature or because they represented a particular community. A somewhat curious instance of the perversion of the intentions of the authors of the Montague Chelmsford Report occurred in one province where it was found more convenient to provide the leader of the strongest party in the legislature with a seat in the Executive Council and in the Ministry. That he should have been content to leave his party unrepresented in the Ministry indicates clearly the comparative importance attached to the two halves of the Government. *Method of forming the Cabinet.*

15. It had been the intention of the authors of the reformed constitution that the two halves of the government while consulting together should be separately responsible for their own spheres. In practice however the result was far different. One consequence of the relationship between the two halves of the Government was that they found themselves in some respects mutually dependent upon one another. The Ministers found it convenient to cultivate friendly relations with the official bloc, upon which they could generally rely and on which they were sometimes dependent for their retention of office. On the part of the other half of Government there was a natural disinclination to rely on the extraordinary powers vested in the Governor *Relations of Ministers with Executive Councillors*

and to arrange an amicable modus vivendi with the Ministers As a consequence the Ministers learnt to rely upon the official bloc and inevitably came to be regarded as in some respects a part of the bureaucratic government and jointly responsible with them One effect of this was to loosen the ties which bound Ministers to their followers While the Ministers looked to the official bloc for support their followers deemed it unnecessary to yield consistent support to their leaders , nor did they feel the necessity for any rigid system of party discipline In fact, there has been little symptom of the formation of regular political parties and it is one of the strongest criticisms that may be advanced against the system of dyarchy that it has done little, if anything to foster the growth of political parties On the reserved half this relationship resulted inevitably in a certain vacillation and lack of consistency Where circumstances rendered it desirable that the support of the Ministry should be secured for a particular policy the latter were sometimes in a position to secure a modification of the policy of the reserved half as the price of their support

Reaction of Dyarchy on the Electorate

16 The legislature was representative of a small electorate untrained in the arts of self government The natural ignorance of the voters was however in some respects compensated for by an organisation which lent itself readily to political usage Throughout India the masses of the people are accustomed to look to the leaders of their various communities for guidance in many of the ordinary affairs of their daily life At election time therefore the task of the candidates was in some respects, simplified They dealt with the leaders of the different communities while the latter in turn explained matters to their followers and influenced the direction of their votes On the other hand the system of dyarchy involved candidates in certain difficulties The chief interest of the average voter throughout the greater part of India was in matters falling within the purview of the Revenue and Irrigation Departments or connected with the administration of justice and hence there was in many parts a tendency on the part of the electors to regard their local representative rather as a channel through which to obtain redress of their grievances against the reserved departments than as a representative whose duty it was to care for their interests in the spheres in which responsibility had been entrusted to the Legislative Councils To this extent dyarchy was calculated to give the average voter a totally incorrect idea of the real implications of a system of responsible government

Further evil consequences resulted from the fact that the local legislatures had no direct responsibility for those departments which concern the most vital interests of the electors There was a not unnatural tendency on the part of the latter to regard the Ministers as of inferior status to the members of the Executive Council and to adopt an attitude of irresponsibility towards the new system of government However wrongly

they might exercise the franchise the bureaucracy was there to see that no real harm befell them Thus from the very earliest days of responsible government, the voter was deprived of the most powerful incentive to a wise and responsible use of his vote, because his most immediate interests were not involved in the exercise of the franchise

Other influences affecting the Electorate.

17 Certain other influences not directly arising out of the Reforms, were at work to render more difficult the task of the men who took upon themselves the burden of government The masses of the people of India have long been accustomed to believe that England will never relax her hold upon the country that she will always retain her army of occupation that her agents will always be at hand to maintain law and order and that no conscious effort towards this end is required on their own part For generations they have been taught to look to a foreign bureaucracy to care for their needs they have been deprived of all incentive to think of the Government as an institution which it is the duty of every citizen to defend In these circumstances it is difficult for the politically minded and educated classes to convince the electors that there is any need for them to exercise their powers in a responsible manner If those who are the natural leaders of the people of India are to be given a fair chance to educate their countrymen in the task of government England must make it clear beyond the shadow of a doubt that she intends without delay to implement the undertaking given in August 1917 The most effective means of advancing the political education of the masses will be by conferring upon them real responsibility Thus, they may learn by experience that if they fail to exercise wisely the political power conferred upon them their own interests will suffer

Working of Dyarchy.

18 In spite of defects inherent in the system and of difficulties arising from circumstances beyond control a surprising amount of success may be claimed for the new system of government In all the provinces save the Central Provinces and to a lesser extent in Bengal, men of goodwill have been found prepared to give dyarchy a [illegible] have fallen of their aspirations [illegible] Is the forms and conventions of [illegible] been readily adopted Debates have as a rule been conducted at a high level both of eloquence and of decorum The record of legislation passed is one that bears tribute to the enthusiasm with which the new legislatures have approached their task The spread of education the development of co operative societies the increased provision of medical relief are largely due to the influence and indeed the pressure exerted by the legislatures If in some cases there has been a disinclination to impose fresh taxation it must be borne in mind that the ministers have had no real financial responsibility and further

that the provinces have been labouring under a sense of grievance against the Central Government in connection with the Meston settlement. In this connection we may point out that as long as there is a distinction between reserved and transferred subjects, provincial legislatures may be expected to be more ready to make financial provision for the latter than for the former. In some respects, therefore, the reserved departments have lost more through the natural hostility or indifference of the legislatures than they have gained through a protection that has often proved illusory. In this brief review we have perforce omitted to refer to many interesting and instructive features of dyarchy. Perhaps we may fairly sum up the position by saying that, whatever the merits or demerits of the system, it has exhausted its powers for good and that there is a general consensus of opinion both among officials and among leaders of Indian opinion that if there is to be orderly political progress in India fundamental changes must be made in the present system of government. In our opinion there is no safe halfway house in the Provinces between dyarchy and full responsibility. We cannot do better than conclude by quoting from the Report of the Reforms Enquiry Committee of 1924 the following wise words which represent the views of the then Governor in Council of the United Provinces: "Concessions which fall short of complete provincial autonomy will placate no section of the opponents of the existing system; they will secure neither stability nor contentment; and they will lower the efficiency, already impaired, of the administration."

CHAPTER II

GROWTH OF EDUCATION

19 The next topic to which we turn our attention is the growth of education For purposes of the constitutional inquiry under Section 84A of the Government of India Act, the aspect of the question which demands consideration is whether the backwardness of education and the illiteracy of the mass of the people should be regarded as impediments to the growth of responsible government It may be conceded that the successful working of parliamentary institutions presupposes an electorate capable of taking interest in the proceedings of the legislature and of exercising control over its representatives On the other hand in actual fact the grant of the privilege of self government and the extension of the suffrage have often time not followed but preceded and stimulated, the growth of education Parliamentary government in England dates back to the time of Walpole but it was not until the second quarter of the nineteenth century *that the first seeds of state aid in education were* sown and it was not until the Reform Act of 1832 that the attitude of Parliament towards elementary education underwent a change It is worthy of note that the English Elementary Education Act of 1870 was passed three year after, and not before the Reform Act of 1867, which added one million voters —mostly urban labourers—to the electorates Growth of Education

20 According to the report of the Education Committee of 1845 only 16 per cent of the school going children in England were able to read the Bible while the rest could not even spell their names Similarly Professor Keith points out that when Great Britain offered responsible government to the Cape Colony, the chief officials in the Colony submitted a memorandum deprecating the proposal on the grounds, inter alia, of racial cleavage *and the lack of education, even among Europeans** To quote one more example the Durham Report states as follows, with reference to the state of education in Lower Canada —" It is impossible to exaggerate the want of education among the inhabitants no means of instruction have ever been provided for them and they are almost universally destitute of the qualifications even of reading and writing "† We are therefore of opinion that the state of education does not by itself furnish a sure test of fitness for responsible government As however, the growth of education is one of the tests prescribed by Parliament for determining India's fitness for political advance, we propose briefly to review that growth during the last 10 years Conditions in England in the middle of the 19th century In Cape Colony In Canada

* Keith " Responsible Government in the Dominions ", Second Edition, Vol. 1, page 29

† Report on Canada, page 18

Report of the Auxiliary Committee

21 In dealing with this subject we have had the benefit of an exhaustive review by the Auxiliary Committee of the Indian Statutory Commission In appointing that Committee the Statutory Commission made it clear that they were "primarily concerned with education and its organisation in British India in relation to political and constitutional conditions and potentialities of progress" (*Vide* minute of Appointment on page 2 of the Report) The Committee however took the view that a review of the growth of educational institutions on these lines would be too narrow and in their handling of the subject they have travelled somewhat outside the scope of their reference We do not propose to follow the Committee over this latter ground but shall confine ourselves to the aspect of the question indicated in the terms of reference to the Committee and in Section 84A of the Government of India Act

Functions of education in relation to representative government

22 As the Committee rightly point out the function of education in relation to representative government is to produce a popular electorate capable of exercising intelligently the primary functions of citizenship namely to choose representatives with knowledge and intelligence and to understand the actual machinery of voting and secondly to produce a smaller body of persons included in the larger capable of furnishing representatives on legislative and local bodies and officers of the Central and Local administrations The system of primary schools should be so designed as to produce a competent electorate the system of secondary and higher education to produce competent and trustworthy representatives and officials Accordingly we now turn to a consideration of these systems as they operate in India and the extent to which they fulfil their purpose

Primary Education Government declarations in favour of,

23 The interest of the British authorities in India in education dates back to the time when the Calcutta Madrasah was founded by Warren Hastings and the Sanskrit College at Benares by Lord Cornwallis , but it was not until 1853 that Parliament for the first time investigated seriously and sympathetically the development of Indian education Mass education had up to that time been regarded by the East India Company as a problem impossible to tackle and the only means they adopted of reaching the masses was by educating the literary classes and letting education filter down through them The Education Despatch of Sir Charles Wood in 1854 for the first time imposed on the Government of India the duty of creating a properly articulated system of education from the primary school to the university On the transfer of the Government of India from the East India Company to the Crown the policy laid down in 1854 was confirmed in a despatch of 1859 which advocated the adoption of further steps for the promotion of primary education Primary education was again placed in the forefront of the terms of reference to the Education (Hunter) Commission of 1882 , and in the Government Resolution of 1884 dealing with

the recommendations of that Commission the elementary education of the masses its provision extension and improvement were stated to require the strenuous efforts of the State in a still larger measure than heretofore " When the subject came to be reviewed again in 1904 Lord Curzon s Government declared that primary education had received insufficient attention and an inadequate share of the public funds and that primary education should be made a leading charge upon provincial revenues Lastly in 1912 His Majesty the King Emperor made his famous declaration on education in the following terms —

> It is my wish that there may be spread over the land a network of schools and colleges from which will go forth loyal and manly and useful citizens able to hold their own in industries and agriculture and all the vocations in life And it is my wish too that the homes of my Indian subjects may be brightened and their labour sweetened by the spread of knowledge with all that follows in its train a higher level of thought of comfort and of health It is through education that my wish will be fulfilled and the cause of education in India will ever be very close to my heart

24 The primary education of the masses has thus been repeatedly declared during the last seventy five years to be the special care of the British Government in India It is therefore worth while to examine the progress achieved in this direction during that period and to see how far it has kept pace with the repeated declarations of policy The population of British India according to the census of 1921 is 247 millions In 1917 that is sixty three years after the despatch of 1854 and on the eve of the Government of India Act of 1919 only 6 4 millions that is 2 59 per cent of the total population were receiving instruction in recognised primary schools The total expenditure in the same year on primary schools amounted to 2 93 crores of rupees When we compare this amount with the total disbursements for the year of the Central and Provincial Governments namely, 156 86 crores or the expenditure on the army namely 46 14 crores the true measure of the interest displayed by the Government in mass education becomes apparent It is not surprising in the face of these facts that public opinion in India was profoundly disappointed with the rate of progress achieved and became openly sceptical as to the professed intention of the Government in the matter

Progress achieved before the Reforms

25 This attitude was confirmed when a Bill introduced by the late Mr G K Gokhale into the Imperial Legislative Council in 1911 to make primary education compulsory with the consent of the local authorities and the local governments was turned down by Government on the plea *inter alia* that there was no popular demand for the measure This plea was signally refuted when the popular representatives were given the opportunity of implementing their intentions in the matter But

Mr Gokhale s Compulsory Education Bill

in the meanwhile the Government of India categorically de clared in 1913 that for financial and administrative reasons they refused to adopt the plea of compulsion in primary educa tion

Progress

Reforms

26 With the passing of the Government of India Act of 1919 education became a transferred subject in charge of a minister responsible to the council Forthwith education became the special care of the councils and a powerful impetus was given to its expansion By 1927 the number of pupils in primary schools rose to 9 24 millions an increase of 44 4 per cent during the decade The expenditure on primary education which amounted to only 0 96 crores in 1892 and gradually rose to 2 93 crores in 1917 jumped during the next decade to 6 95 crores an increase of 237 per cent Large sums were demanded by the ministers and voted gladly by the legislative councils With the exception of Burma all the provinces accepted the principle of compulsion in the matter of primary education In the words of the Committee India as a whole has realised that the goal of universal primary education cannot be attained without the adoption of the principle of compulsion So far as the education of boys is concerned Madras has already gone more than half way towards the goal of universal primary education while Bengal Bombay and the Punjab have gone nearly as far and in all other provinces considerable advance has been made The old time apathy of the masses towards education is being rapidly broken down there is a real desire for education and many parents however poor are now prepared to make sacrifices in order that their children may be educated There has been a social and political awakening of the women of India and an insistent demand on their behalf for education and social reform Rapid progress has been made in the number of Muslims receiving education and the Depressed Classes are beginning to respond to the efforts that have been made to improve their condition On all sides there is a desire on the part of the leaders of public opinion to grapple with the complex and difficult problems of education

Secondary and Higher Education

27 In regard to secondary education the Auxiliary Committee are of opinion that the present system is already making a real contribution towards the building up of a directing class ' Of the general excellence of material they state in Indian secondary schools for boys those of us who have lived in the country can speak with confidence With adequate adjustment in the secondary school system and with the strengthening of the present efforts to brighten and enrich the school life of the pupils the schools in India should be able to contribute in increasing measure to the well being of public life in the country ' With regard to higher education which has of late been subjected to much criticism in India the Com mittee close with an equally hopeful note There are signs they state " that the university and college authorities in

India are beginning to realise more fully the value of corporate life and social activities There is a growing feeling that education is not merely a matter of lectures, books and notes but of the living contact of personalities of students with students and of students with teachers Opportunities for corporate life are being extended by college societies by hostels and halls of residence by games and healthy recreation, college days and reunions socials old students gatherings college societies and magazines these are now the rule rather than the exception In a number of universities, there are social service leagues which encourage in the student a sympathy with his less fortunate fellow citizens and which impress upon him that it is a duty and a privilege to give them a helping hand "

28 We are of opinion that these facts constitute a complete vindication of and a conclusive argument for carrying forward to its final stage a system which has produced these results The meagre progress achieved in the pre Reform period, the phenomenal expansion of education since its transfer to responsible ministers the keen interest displayed by all sections of the community in their own education and the sacrifices made by them in that behalf are factors which we think more than fulfil the test which we started to apply We are aware that there is much waste and ineffectiveness that the results have not always been commensurate with the effort The rapidity of the advance has led to defects of organisation which call for a remedy before the full fruit of the efforts is reaped But the defects are unavoidable in the early stages of such a gigantic effort Given time to take stock of the situation we have no doubt that those who have shown such enthusiasm for the cause will not allow their sacrifices to be in vain We are, therefore not dismayed by the debit side of the account What is essential in our opinion is the fact that the sudden transfer of responsibility from the bureaucracy to the people of the [illegible] the part of the latter, but rather [illegible]ze the opportunity and to turn it

Our conclusion

CHAPTER III

Development of Representative Institutions

Indian Councils Acts of 1861 and 1892

29 The Indian Councils Act of 1861 was the first enactment by which representatives of Indian opinion were admitted to a share in the legislatures of the country. A few Indians were nominated as additional members of the legislative councils of Madras, Bombay and Bengal but their position was purely advisory and no share of responsibility was conferred upon them. The Councils Act of 1892 for the first time introduced tentatively and cautiously, the principle of election in the legislative councils of Madras, Bombay, Bengal and the United Provinces. The official majorities in the councils were maintained but a majority of the unofficial seats were filled by nomination on the recommendation of local bodies. In practice the local bodies elected representatives since their choice was respected by the local governments in filling up the nominated posts. In the Legislative Council of the Governor General the same principle was even more sparingly applied, four seats being filled on the recommendation of the unofficial members of the four provincial councils and one on the recommendation of the Calcutta Chamber of Commerce. The Authors of the Joint Report note that the working of the councils established by the Act of 1892 had on the whole been favourable, the criticisms as a rule being moderate and valuable suggestions being not infrequently received.

Morley-Minto Reforms

30 The next landmark of importance was the Morley Minto Reforms of 1909. The principal features of the constitutional changes then introduced were the definite introduction of the elective principle based on representation by classes and interests, the official recognition of the claims of the Muslims to separate electorates, and the acceptance of the principle of indirect election by municipalities and district boards as the method of selection of the majority of the unofficial members of the legislatures. In Bengal alone did the elected members form a majority of the council; elsewhere the majority was composed of official and nominated members. In the Governor General's Council where an official majority was retained the elected members were chosen partly by special constituencies and partly by the unofficial members of the nine provincial councils.

Absence of real responsibility

31 The evolution of the councils had now reached the point at which representative Indians were admitted to an increasing share in the legislatures and the principle of election was definitely established, but the authors of the Morley Minto Reforms specifically disclaimed any intention of establishing a system of parliamentary government in India. All real power

India are b ginning to realis more fully the value of corporate life and social activities There is a growing feeling that educa tion is not merely a matter of lectures, books and notes but of the living contact of personalities, of students with student and of students with teachers Opportunities for corporate life are being extended by college societies by host ls and halls of residence by games and healthy recreation colleg days and reunions socials old students' gatherings college soci ti s and magazines these are now the rul rather than the ex [illegible] In a number of universities th re ar social s [illegible] which encourage in th stud nt a sympathy with [illegible] tunate f llow citiz ns and which [illegible] a duty and a privileg to give th [illegible]

28 We ar of opinion that th [illegible] vindication of and a conclu ive arg [illegible] to its final stage a system which [illegible] meagre progress achieved in th [illegible] phenomenal expansion of educat [illegible] sible ministers the keen inter [illegible] community in their own educat [illegible] them in that behalf are [illegible] the test which we started to ap [illegible] is much waste and ineffect [illegible] always been commen urate w [illegible] the advance has led to defe [illegible] a remedy before the f ll [illegible] defects are unavoidable in the [illegible] effort Given time to take [illegible] doubt that those who have [illegible] cause will not allo their [illegible] therefore not dismayed by the d [illegible] is essential in our op [illegible] the [illegible] of responsibility from the [illegible] country led to no sh rinking on the [illegible] to a keen determination to seize th [illegible] into splendid achievem n

CHAPTER III

DEVELOPMENT OF REPRESENTATIVE INSTITUTIONS

Indian Councils Acts of 18 1 and 189

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and responsibility still vested in t
Indians was confined to criticism
over which they had no effective cc
Acts referred to above the advi
doubtless sought but little regard was paid to Indian public opinion The enactments in question represented rather the views of Englishmen as to the means which in their opinion should be adopted to carry out what was commonly referred to in England as the responsibility of England for the government of India ' No real responsibility was conferred on Indians and in the absence of this ll important element of responsibility in the provincial and central legislatures it cannot be contended that prior to the introduction of the Montagu Chelmsford Reforms the British Government had afforded to the people of India any real opportunity for learning the art of self government in the domain either of provincial or central administration

32 Nor were the conditions materially different in the sphere of local self government Although municipal government had existed in the Presidency towns from the early days of British rule it was not until 1872 78 that the first substantial steps were taken towards establishing it on an elective basis one half the membership in Madras and Bombay and two thirds in Calcutta being thrown open to election In Bombay alone was the Corporation allowed to elect its own chairman in Madras and Calcutta the power of nominating this functionary was reserved to the Government For urban areas outside the Presidency towns legislation was passed about the middle of the nineteenth century permitting the formation on the application of the inhabitants of local committees to deal with municipal affair but the experiment failed generally As a result of the Report of the Royal Army Sanitary Commission 1863 which prominently directed attention to the unhealthy condition of towns action was taken to do away with the voluntary principle and to recognise for the first time the desirability of a number of members of municipal committees being elected with the permission of the local government In the Central Provinces alone however was the elective principle actually introduced and it was not until 1870 that this principle was generally recognised in the municipal law of the provinces

Local self government Early stages

33 The great landmark in the history of local self government is the resolution of Lord Ripon s Government in 1882 which for the first time recognised local self government as an instrument of political and popular education and recommended the provincial governments to extend a net work of institutions of lo l government throughout the country and especially in rural are to introduce in them a preponderance of non official m mb elected wherever possible and to eliminate inside contr

Lord Ripon s Pronounceme t

as possible by the appointment of non official chairmen In the legislation which ensued the proportion of elected members was fixed at one half in Bombay, two thirds in Bengal and three quarters in Madras, the North Western Province (now the United Provinces) and Burma In the Punjab the introduction of the elective principle was left to the discretion of the local government Assam and the Central Provinces passed no new legislation

Effect in urban areas

In rural areas

34 In rural areas prior to 1882 local funds raised on a semi voluntary basis or under Executive orders were managed by local officials or small committees, some of which had a nominated non official element In Bengal alone was the power taken under the law to get two thirds of the members elected or nominated from amongst the ratepayers, but in practice the method of election to these committees was not adopted ...

... the composition of the larger bodies Thus in Madras and the North Western Province the boards were either wholly or partly nominated in Bombay only one half the members of each board could be elected, while in Bengal election was applied in the advanced districts only In the Punjab the Government retained the power to decide whether appointments should be by election or nomination the Central Provinces conceded the right to elect two thirds of the members and in Assam the elective system was not applied to Indians but members of the European Planting Community were permitted to elect their representatives

Electorates

35 The formation of the electorates was scarcely designed materially to further the political education of the people In Madras only to the Village Unions and to Taluk Boards in areas which had no village unions could direct election be made by taxpayers the election to district boards could only be made by members of Taluk Boards from amongst themselves Similar provisions, with slight variations existed in Bengal and the North Western Province In the matter of the appointment of chairmen discretion was generally reserved to the Government to allow them to be elected or nominated, but except in the Central Provinces official chairmen were as a rule appointed The main aim of Lord Ripon's policy was to convert local bodies from "mere shadows" as Lord MacDonell calls them registering the orders of the Executive into vital links in the administrative chain and as schools for training the inhabitants of the country in responsibility To judge how far they fulfilled this function we cannot do better than quote the verdict of the Joint Report "What happened," the Joint Authors state "was that the educative principle was subordinated to the desire for more immediate results The manage

Absence of real responsibility

Lord Ripon's policy not given effect to

ment of local affairs remained in the hands of those who were most competent to handle them, not from bureaucratic lust of power, but because no other agency readily presented itself and district officers never had the leisure nor were given sufficient assistance to create one The broad fact remains that in a space of over thirty years the progress in developing genuine local self government has been inadequate in the greater part of India " Had practical effect been given to the liberal sentiments which underlay Lord Ripon's pronouncement of 1882 the people of India would have been better prepared to carry out the responsibilities of self government in the years following 1919

Growth of Local Self Government since the Reforms.

36 The Pronouncement of the 20th August 1917, and the Montagu Chelmsford Report again focussed attention on the development of local self government and proposals were elaborated in most of the provinces which were intended to democratise local bodies and invest them with real responsibility Under the Reforms local self government became a provincial transferred subject and from 1921 the practical application of the policy fell to the ministers That the power was fully exercised is proved by the number of laws relating to local self government which were passed by the provincial legislative councils between 1921 and 1926 In Bombay the franchise for the rural boards was extended the sex disqualification removed and increased powers given to the boards The proportion of elected members in the larger municipalities was raised to four fifths women were given the franchise and the right to stand for election and special provision was made for the representation of the depressed classes In Bengal the Calcutta Municipal Act democratised the constitution of the Calcutta Corporation removed the sex disqualification and made the offices of both the mayor and the chief executive officer elective In the United Provinces the qualifications for the municipal and the district board vote were *reduced, the composition of the boards completely de* officialised and increased powers of taxation conferred on them No less than five laws were passed in the Punjab increasing the *power and independence of the municipalities and lowering the* franchise for the district boards The nominated element in all local bodies was substantially reduced and the municipalities were encouraged to elect non official presidents and vice presidents The result broadly speaking was to make the boards both municipal and rural predominantly non official in all the Governors Provinces and to reduce the control of Government to external supervision by the elimination of officers of Government from the position of chairmen To what extent conditions in these respects were altered will be evident from the following table —

Statement showing the percentage of Elected Members and Chairmen of Municipalities and Rural Boards in 1918 19 and 1925 26

Name of Province	Municipalities				Rural Boards			
	Percentage of elected members		Percentage of elected Chairmen		Percentage of elected members		Percentage of elected Chairmen	
	1918 19	1925 26	1918 19	1925 26	1918 19	1925 26	1918 19	1925 26
Madras	55 8	76 7	69 44	96 25	22 2	85 4	16 49	94 17
Bombay	48 9	78 3	40 52	92 3	49 7	75 4	None	85 55
Bengal	62 9	64 2	85 21	93 0	47 4	61 3	60 8[illegible]	9[illegible] [illegible]9
United Provinces	85 2	86 9	74 69	85 88	74 6	93 4	66 66	100
Punjab	51 0	72 3	19 44	86 53	36 9	67 0	None	3 44
Bihar and Orissa	59 9	77 9	40 0	91 41	86 1	73 4	56 56	91 12
Central Provinces	62 4	77 4	84 74	96 92	73 8	75 3	69 6	88 66
Assam	53 1	[illegible]8 1	60 87	60 0	63 0	69 7	[illegible]5 26	68 42

Conditions before and after 1920 contrasted

37 The broad facts which stand out from the above narrative are that for a space of thirty six years from the date of Lord Ripon's Resolution local bodies remained in the leading strings of officials and little progress was made in the real training of the people in responsibility, even in local affairs that the impulse for their present growth and democratisation came from the Pronouncement of 1917 and finally that the marked progress made since that date is due largely to the initiative of the ministers working with the full support of the reformed legislatures The enthusiasm of both bore fruit to which reference has been made in the preceding paragraph Great interest was taken by the people both in the elections to local bodies and in the work performed by them The percentage of voters who went to the polls was 70 in municipal and 52 in rural areas in Madras in 192[illegible] and 65 in municipal and 61 in rural areas in Bihar and Orissa in 1927 The position in the other provinces in this respect is not dissimilar To the keen interest taken by the local bodies in education the report of the Auxiliary Committee bears eloquent testimony Large sums were also spent by them on the extension of medical facilities and the improvement of public health Their aversion to taxation had been a common complaint in the pre Reform period But with the broadening of their constitution they showed themselves remarkably alive to their responsibilities in this direction The incidence of taxation per head of population in the municipalities rose in all provinces during the years 1918 1919 to 1925 1926 some of the notable increases being from Rs 3 4 1 to Rs 5 11 6 in Bombay , Rs 2 3 0 to Rs 3 7 7 in the United Provinces Rs 3 5 6 to Rs 4 2 7 in the Punjab , and Rs 1 8 9 to Rs 2 2 0 in Bihar and Orissa The rise in the

case of the rural boards was less noticeable Bombay being a notable exception with an increase from Rs 0 2 7 to Rs 0 5 1

38 We find that the working of local bodies in recent years has been subjected to adverse criticism but it does not appear to be sufficiently realised by the critics that responsibility was suddenly transferred from trained officers supported by adequate technical staff and with the resources of the revenue department generally at their disposal for purposes of inspection and check to unofficial bodies operating in some cases with inadequate technical staff and in an atmosphere charged with resentment against and suspicion of official control Where in the first years of the reformed constitution advice from experienced officials might have been of great value to local bodies the conditions were such that the latter were as little likely to ask for it as the former were certain to feel diffident in offering it Circumstances thus combined to render the task of local bodies in these first years of their emancipation from official control one of unexampled difficulty It would be unsafe as well as unfair to attempt to draw too definite conclusions as to the future of local self government from the history of the past nine years To us the wonder is not that these bodies should have failed in some instances to maintain their former efficiency but that their general level of working should have remained so high Many of the defects in our opinion were the inevitable result of the suddenness with which the transition from official tutelage to complete freedom was made They do not connote an inability on the part of the people to manage their own affairs through the medium of representative institutions Certain improvements in the machinery of local self government are undoubtedly called for and in particular the relationship between the provincial governments and local bodies seems to require investigation We have been greatly impressed with the necessity for the improvement—in some provinces creation would be a more appropriate word—of the machinery through which local governments supervise and co ordinate the work of local bodies We desire to draw particular attention to this important question In so far however as any inference as to the fitness of the people for responsibility in the political sphere can be legitimately drawn from their conduct of affairs in the sphere of local self government we think that the narrative outlined above fully supports and justifies the advance which we are going to recommend

Our conclusion.

Part II

THE PROPOSALS

CHAPTER IV

The Provinces

Question of Sind and Burma

39 Before we deal with the question of the provincial governments two preliminary questions must be referred to (1) the question of the separation of Sind from the Bombay Presidency and its constitution into a separate province, and (2) the question of the separation of Burma from India

Separation of Sind from the Bombay Presidency

... to the last census an ... numbered 2 406 023 an... presented to the Joint Free Conference indicates sufficiently clearly that the great majority of the Muslim inhabitants of Sind desire its separation from Bombay and its formation into a new province The reasons put forward by them in support of their proposal are principally of a sentimental character but none the less potent They argue that Sind is geographically ethnologically and linguistically a unit distinct from the Presidency proper all of which grounds of argument are substantially correct We cannot, however agree with their argument that the connection of Sind with Bombay has been of disadvantage to Sind and in particular that the port of Karachi has suffered owing to the jealousy of Bombay The principal arguments put forward by those—including the Bombay Government—who are opposed to separation are of a financial nature It is argued that Sind is too small both in area and population to support a separate government that it would be impossible for Sind to support the expense of maintaining a staff of experts such as those whose advice she now enjoys as part of the Presidency proper Further the cadre of the public service would be so small that it would be difficult to obtain men of the right stamp Special reference is made in this connection to the Sukkur barrage the capital necessary for the completion of which has been provided by the Government of India It is argued that that Government would not consent that the barrage and its connected irrigation should be handed over to a provincial government without insisting upon the right to exercise some control with the object of seeing that funds for the service of the debt and repayment of the capital were provided

Some of us are of opinion that the financial question is at present a definite bar to the creation of a separate province of

Sind The majority of us however, are of the opinion that if the people of Sind are prepared to face the financial burden and other disadvantages which seem likely to result from the constitution of a separate province their wishes in the matter should be complied with We accordingly, recommend that Sind should be separated from the Bombay Presidency

(2) *Burma*—It is undeniable that there exists among the people of Burma a strong demand that Burma should be separated from India Some of us are of the opinion that it would be inconsistent with India s claim for self government to deny to the Burmans the right to separate from India should they so desire The proposal however raises questions of such vital importance to both countries that their consideration and settlement appear to the majority of us to be a necessary preliminary to a decision on the main question The two principal questions for decision are those connected with defence and finance and we have not the material before us to enable us to form a considered judgment on such intricate and debatable problems We have had estimates placed before us which attempt to forecast the financial effect of the separation of Burma and protagonists of Burma s cause argue that she will benefit considerably by the change On the other hand it is claimed that large sums of Indian money were expended upon the conquest and subsequent development of Burma that Burma for many years was a deficit province maintained at the expense of India and that if Burma is now to cease to be a part of India India can justly claim the repayment of large sums As regards the question of defence various problems are involved The risk of invasion from the North East is perhaps small at present but India must always be interested in the adequate defence of Burma from external invasion The Burmans have not so far shown any great capacity for regular military service yet Burma separated from India would have no more claim to be garrisoned by the Indian Army than has Ceylon If the Indian Army is to be withdrawn from Burma by whom is the country to be garrisoned and what will be the financial effect of the consequent changes ? Such are some of the aspects of two vital questions connected with the problem of the separation of Burma Until these questions have received full and careful consideration and a settlement of them has been arrived at we are not in a position to recommend the separation of Burma from India

Separation of Burma from India

PROVINCIAL EXECUTIVE

40 The nine provinces are now governed by a divided Executive the Governor in Council controlling the reserved subjects while the Governor with ministers is responsible for the transferred subjects The alternatives before us are either to retain dyarchy whether in its present or in a modified form or to abolish the distinction between reserved and transferred subjects

Present structure of the Provincial Executive Dyarchy

and set up a unitary form of government The present system was devised as a temporary expedient it is highly artificial has many inherent defects and involves grave disadvantages That the system has worked even moderately well since its inception is a tribute to the men who have worked it rather than an argument in favour of its continuance The King's Government has been carried on in spite of and not because of dyarchy There is in fact, a preponderating volume of opinion both official and unofficial in favour of the abolition of dyarchy and the institution of a unitary system of government in the provinces Apart from the views of individuals it is only the United Provinces Government and the Bombay Provincial Committee who as a body recommend the continuance of dyarchy The Bombay Provincial Committee would retain the department of Law and Order as a reserved subject only for a period of five years after which it should be open to the provincial legislature to demand the transfer of this last remnant of dyarchy to the control of responsible ministers The United Provinces Government while recommending the retention of a modified system of dyarchy would widen the field of responsibility by the transfer of further subjects

Unitary system of Government recommended

41 In view of this consensus of opinion among those who have had first hand experience of dyarchy the majority of us have no hesitation in recommending that the Executive Government in the nine major provinces and in the Province of Sind if separated from Bombay should consist of a Governor appointed by the Crown and ministers responsible to the legislature We consider that the distinction between reserved and transferred subjects should be abolished and that all subjects save those specifically classified as central should be provincial The only exception we would make to this general rule is that in Bengal following the recommendation of the local Government we would retain law and order in charge of a member not directly responsible to the legislature

Strength of the Cabinet

42 On consideration of the local conditions and the recommendations of the various Provincial Governments and Committees we recommend that the Cabinet should consist of eight ministers in Madras six in the United Provinces five in Bombay Bengal Punjab and Burma four in Bihar and Orissa and Assam and three in the Central Provinces The ministers should be appointed by the Governor in the manner indicated in the next paragraph and except in one instance referred to hereafter either be elected members of the local Legislature or obtain seats therein within six months from the date of appointment We do not accept the suggestion that they should be elected by the Legislature

Joint responsibility

43 It is an essential feature of our scheme that there should be joint responsibility in the Cabinet We therefore recommend that in appointing the ministers the Governor should follow the English constitutional practice of selecting the Chief Minister

and appointing the other ministers on his recommendation It was suggested in the course of our deliberations that the Governor should appoint the ministers in consultation with the Chief Minister but not necessarily on his recommendations This however would in our opinion be incompatible with joint responsibility since it is essential for the latter that the Chief Minister should be in a position to select colleagues in whom he has confidence and not be compelled to accept men chosen by the Governor

Composition of the Cabinet Question of a Muslim Minister

44 Two of our colleagues have urged that statutory provision should be made for the inclusion of one Muslim member in the Cabinet in provinces where the Muslims form a minority of the population They argue that the interests of the community must be safeguarded within the inner councils of the Government , and that this can be done most effectively by including in the Cabinet a representative of the community They point to the fact that throughout the period during which the existing constitution has been in operation the Executive Government of every Province, save the Central Provinces and Burma has almost invariably contained a Muslim member and they desire that this recognition of the position of the community should be confirmed in the new constitution Finally they argue that questions connected with Muhammadan religious endowments the appointment of Kazis and cognate matters must be handled by Muhammadan ministers

Statutory provision for inclusion of a Muslim in Cabinet not recommended

45 The desire of the Muslim community for a share in the Executive Government of the country is natural and has our entire sympathy We believe that no wise minister will ignore the accession of strength which the inclusion of a Muslim member will bring to his Cabinet It is probable that the exigencies of the parliamentary situation will make the inclusion of a Muslim minister in the Cabinet virtually certain in most provinces In any case it is very improbable that the position accorded to the community in this respect during the past ten years will be lightly ignored in the formation of future ministries But a statutory [illegible] spective of his ca[illegible] able to command [illegible] e The admission of such a claim would give rise to similar claims from other communities and interests which it would be difficult to ignore Such an appointment would be inconsistent with the assumption of joint responsibility by the Cabinet and would be destructive of its solidarity In the words of the Punjab Committee the selection of ministers irrespective of party considerations would cut at the very root of the principle of responsible government "* The argument relating to Muslim endowments appears to us to be particularly dangerous These

* Report of the Punjab Reforms Committee 1929, para 90

endowments are at present adjudicated upon by judges irrespective of their religion If the argument were sound that a Muhammadan minister alone should deal with them on the executive side, it might be claimed with equal force that a Muhammadan judge alone should be capable of handling them on the judicial side—a claim which has never been made and would if allowed be subversive of sound government We, therefore find ourselves unable to accept the proposal

Working of the Cabinet

46 With regard to the internal working of the Cabinet we propose that the Chief Minister should preside at the meetings and save in Bengal in one particular respect distribute the
Cabinet He may appoint
such member will be the
ess all the powers of the
Chief Minister for the time being It should be within the discretion of the Chief Minister to appoint an official as secretary to the Cabinet, who should work under his orders or, in his absence under those of the Vice President Rules for the transaction of the business of the local government should be prepared by the Cabinet and submitted to the Governor for his approval, and should become operative to the extent of such approval

The Governor not to be a member of the Cabinet

the constitution of
member of it It is
presentative of the
King Emperor, should not become the subject of criticism in the Legislative Council as would be the case if he is directly connected with the decisions of the Cabinet There is however, a more weighty reason for his exclusion The transition from the present dyarchical constitution to full responsible government in the provinces necessitates the retention of certain extraordinary powers in the hands of the Governor It is essential for the proper exercise of those powers that the Governor should be placed outside and above the Cabinet It is our hope that with the growth of responsible government in the provinces the exercise of those powers will gradually fall into desuetude leaving the Governor ultimately in the position of a constitutional ruler The consummation of this ideal will be retarded rather than advanced by placing the Governor in the Cabinet

Law and Order in Bengal

48 The exception we have made in paragraph 42 relates to the portfolio of Law and Order in Bengal Owing to the existence of acute communal tension in that province and its repercussions on the administration a section of the Government of Bengal is of opinion that the handing over of the portfolio of Law and Order to an elected minister responsible to the Council would create a large measure of distrust and apprehension, which would be unfavourable to the advance of the province ' *

* Report on the working of the Reformed Constitution in Bengal, 1921 27, Part II, pages 15—16

The Government of Bengal, therefore, recommend that the port folio in question should be placed in the hands of an official minister, appointed by the Governor The Government, including this official member should they suggest, be unitary in character, and proposals connected with the department of Law and Order which come before the Legislative Council should have been approved by the Government as a whole

49 We are impressed with the danger pointed out, but apprehend that the solution recommended by the Government of Bengal would be unworkable and would make the position of the official minister vis a vis the members of the Cabinet and the Legislature full of difficulty The alternative suggested by the Provincial Committee namely that of safeguarding the administration of the department of Law and Order by an elected minister by associating with him a board composed on communal lines, does not commend itself to us as either feasible or satisfactory We have already recommended that Law and Order should not be a transferred subject in Bengal In pursuance of this recommendation we now propose that the port folio should be placed in charge of a member—not necessarily an official—appointed by the Governor He will on appointment become an ex officio member of the Legislative Council, but will not, of course, be responsible to it Save in this respect we recommend that the constitution and the working of the Cabinet in Bengal should follow the general lines laid down for the other provinces

Our proposals regarding the same

50 A question which has engaged our special attention is the desirability of guarding against the risk of too frequent changes of ministries It is a well known historical fact that governments tend to be most stable where the two party system obtains in the legislature, while cabinets dependent on the support of groups separated by no very clear political principles change often with kaleidoscopic rapidity Until regular parties develop and the principles of responsible government are more widely understood throughout India the risk to which we have alluded is one that must be faced It requires little argument to make out a case for giving reasonable security of tenure to ministries in the years during which a system of truly responsible government is being inaugurated in the provinces Various methods have been suggested by which this end might be attained The American model—an executive appointed for a fixed period—we have rejected as being unsuited to Indian conditions and inconsistent with the form of government which we desire to see established Our object is to give the ministers reasonable security of tenure while ensuring that power to remove them shall be exercisable by the legislature when they have ceased to have its confidence We therefore consider that adequate notice should be given before any motion of want of confidence is introduced This provision will ensure that all members of the legislature will have a reasonable opportunity to

Desirability of securing stability of Ministries: Votes of want of confidence.

attend We further consider that no motion of want of confidence should entail the resignation of a ministry unless two thirds of the members present vote in favour of it Some of us would have preferred that an absolute majority of the members of the legislature should be required in order to carry a motion of no confidence , but such a provision would, perhaps render the removal of an unpopular ministry too difficult We have, therefore, preferred the first alternative

Salaries of Ministers.

51 Following the almost unanimous recommendation of the provincial Governments and Committees we recommend that the salaries of ministers and of the President of the Council should be fixed by an Act of the local legislature We are aware that the reduction of salary by a vote of the legislature is one of the generally accepted methods of bringing censure on a minister and of removing him from office But under our proposal it will be open to the legislature to secure this end by refusal or reduction of the grants required for the administration of a department On the other hand until constitutional usages and practices become more crystallized and appreciated in India, we think that there is some advantage in not keeping the ministers in a state of uncertainty as to the extent of their salaries from time to time, and in securing that the reduction, if any, will be carried by the deliberate will of the legislature expressed by a formal enactment and not by a casual vote

Position of the Governor

52 The Governor of a province at present occupies a dual position and exercises a double responsibility On the one hand,

legislature that is in part popularly elected On the other hand he exercises vis a vis the Ministry and Legislature, special responsibilities unconnected with any of the subjects administered by the reserved half of the Provincial Government The proposals which we put forward will if adopted have the effect of modifying profoundly the position of the Governor With the transfer of all subjects to a responsible Minister certain of his existing functions will automatically lapse , and we have to decide on the powers of control with which we wish to invest him in view of the altered circumstances We have been impressed during the course of our tour with the Statutory Commission by the evidence of a widespread demand that the Governor should be the depository of certain extraordinary powers to enable him to deal with any emergencies that may arise We have found a general realisation of the fact that in a situation so novel and complex as that produced in India by the constitutional changes consequent on the institution of the reforms the future course of events cannot with any certainty be predicted or foreseen There is a disposition in some quarters to regard the Governor as a Deus ex machina who will step in to assuage communal difference solve all difficulties and in the

last resort, assume charge of the administration in the event of a breakdown

While we are alive to the importance of investing the Governor with adequate powers to meet all emergencies that may arise during the time that the country is settling down to the exercise of the increased responsibilities of provincial self government, we are no less impressed with the importance of making responsible government in the provinces a reality The chief responsibility for the government of the province must rest with the Cabinet The Governor, we consider, should normally remain in the background, armed with certain emergency powers of intervention and control, which we trust may gradually lapse through disuse, until he has assumed the position of a constitutional ruler in the British Dominions

The Governor and the Cabinet.

53 The Governor of the province should, we consider, exercise the ordinary constitutional power of dismissing the Cabinet , but we would not vest in him any extraordinary power to dismiss an individual minister, as has been proposed in some quarters In dismissing as in appointing, a Cabinet, we consider that the Governor should follow the ordinary constitutional practice which obtains in self governing British dominions The power of the Governor to override the Cabinet we would restrict and confine within prescribed limits For the purpose of maintaining peace and tranquillity in a province we [illegible] n to the Governor to take any [illegible] issue orders in the name of [illegible] ovince to preserve peace and order Where the Governor considers that an order issued by a minister should be overruled for the purpose of maintaining peace and tranquillity, he should have the power to do so Similarly, where no order has been issued by a minister, the Governor should have the power to issue any order necessary in his opinion for the maintenance of peace and tranquillity In this connection we consider that it should be open to the Governor to direct or prohibit the transfer of any district magistrate or district superintendent of police to and from any district Apart from matters connected with the maintenance of peace and tranquillity, we consider that the Governor should not be given the power to override the decision of the majority of the Cabinet If, however, he differs from the Cabinet on any question affecting (a) the religion or the religious rites of any class of British subjects in British India , (b) any central subject , or (c) the interests of another province, he should have the power to refer the question to the Governor General, whose decision shall be final

PROVINCIAL LEGISLATURE.

Franchise: Recommendations of the Joint Report.

54 We now turn to a consideration of questions connected with the composition and powers of the provincial legislatures The authors of the Joint Report laid emphasis on the existence of a wide and intelligent electorate as essential for

complete responsible government and suggested it as one of the most important duties of the Statutory Commission "to examine the growth of capacity and responsibility in the electorates."* But, while they spoke of "a broad franchise as the arch on which the edifice of self government must be raised,"† they recommended that its extent should be determined rather with reference to practical difficulties than to any *a priori* considerations as to the degree of education or amount of income which may be held to constitute a qualification '‡ Acting on these lines and following largely the varying recommendations of the local governments, the Franchise (Southborough) Committee suggested electorates ranging from 1 2 per cent of the population in the Punjab to 3 3 per cent in Bombay, the figure in one province only, namely, Assam, being as high as 5 per cent Owing to various reasons alluded to hereafter, these ratios have since altered and the percentages based on the figures of voters in 1926 are as follows—

Size of the present electorates

Name of Province	*Percentage of Total Population Enfranchised*
Madras	3 2
Bombay	4 03
Bengal	2 4
United Provinces	3 5
Punjab	3 4
Bihar and Orissa	1 1
Burma	13 8
Assam	3 3
Central Provinces and Berar	1 23
Legislative Assembly	0 45

Size of electorate no criterion of fitness for Self Government.

55 The smallness of the electorates has been made in some quarters a ground of criticism against the Councils, and it is argued that, until the latter become more largely representative, it would be idle to think of investing them with larger powers It may, however, be mentioned that a system of parliamentary government existed in England before 1832, although the electorate was practically confined to the upper classes, and that even after the Reform Act of 1832 the proportion of the population enfranchised was less than 3 per cent, it rose to 9 per cent in 1867 and 16 per cent in 1884 The growth of the electorate in other countries has been equally slow, but the smallness of the electorate has nowhere precluded the exercise of self government by the countries concerned We can concieve of no reason why the case of India should be different It must also be borne in mind that the comparison of voters with the total population presents the size of the electorate in a somewhat unfavourable perspective

* Report on Indian Constitutional Reforms, para 264
† Ibid para. 262 ‡ Ibid para 226

The complete enfranchisement of women, even in leading European countries, is of recent occurrence In India, owing to social customs amongst Muslims and Hindus the number of women enfranchised is necessarily small and unduly lowers the general average A more true picture is afforded by comparing the electorate with the adult male population, which virtually is the only class from which it is formed Looked at from this point of view, the electorate comprises 46 per cent of the population in Burma, 11 to 13 per cent in Madras, Bombay, the United Provinces, Punjab and Assam, 9 per cent in Bengal, and 4 per cent in Bihar and Orissa and the Central Provinces and Berar The percentages, except in the last two cases, are not inconsiderable, but, nevertheless, we recognise that a truly democratic government, such as we aim at establishing in our country, is inconsistent with the existence of a narrow franchise We therefore propose that a substantial increase should be made in the size of the electorates

Growth of the electorate

56 The growth of the electorate during the last ten years and the popular attitude towards the exercise of the franchise, in our opinion amply justify an advance At the elections of 1920 there were potent influences at work hostile to the development of the electorate and to the use of the franchise The registration of voters in 1920 showed an electorate of 5 3 millions in the provinces (excluding Burma to which the reforms were not extended until 1923) and of 0 9 million in the Legislative Assembly How far the registered strength was affected by the novelty of the work and by the Congress policy of boycott is not easy to determine, but the registrations since 1920 have shown a steady growth in the electorate By 1926 the electorate had risen to 6 4 millions in the eight provinces and to 1 1 million for the Assembly (excluding Burma) showing percentage increases of 20 and 22 respectively The growth of population increase of wealth bringing more citizens above t
of registration and
have contributed to tl
change in the attitude of the political parties to the policy of council entry and the consequent quickening of public interest in politics have been potent factors in the increase

Growth of voting

57 The growth of the electorate is less significant of popular attitude towards franchise and the reforms generally than the growth of voting At the elections for the Assembly in 1920 25 per cent of the voters in contested constituencies went to the polls in 1926 the percentage rose to 48 For the total electorate the figures in the two years were 20 per cent and 36 per cent respectively the actual percentages in certain provinces being much higher *e g* 47 in the Punjab 48 in the Central Provinces and 50 in Bihar and Orissa Polling for the

Provincial Councils has been equally heavy, the percentages in 1926 ranging from 39 in Bombay and 43 in Madras to 53 in the Punjab For the contested constituencies in Bihar and Orissa in 1926 the percentage was 61, a remarkable figure for a comparatively backward province On this point the remarks of some of the Provincial Governments are interesting —

PUNJAB

"   the keenness in rural polling, even in districts previously regarded as backward and remote denotes an ambition which can hardly be disregarded " *

BENGAL

"There has been a slow but steady growth in the interest taken by the electorate in the elections and the working of the councils   Considering the comparatively long distances that voters have to travel in the country to arrive at the polling booths these figures appear to indicate that the interest taken in elections in rural areas is not less than in the towns " †

Adult Suffrage impracticable.

58 We now come to our own proposals on the subject We are of opinion that adult suffrage though an ideal to be aimed at and reached by gradual stages is impracticable at the present day The number of persons now entitled to vote for the Provincial Councils is 8 25 millions approximately and some of the local governments are opposed to an increase of this number on the ground [illegible] existing electoral machinery [illegible] number According to the [illegible] British India over twenty y[illegible] exceeds [illegible] millions We believe that it would be impossible for an electorate of these dimensions to be handled adequately by the present or any other machinery that can be devised in the near future until further experience has been gained in the handling of electorates of a more reasonable size

Our proposals

59 With regard to the immediate extension of the franchise, two lines of advance suggest themselves namely to leave the question to the decision of the Councils and secondly to take the first step forward before the new Councils are constituted Although we entertain no doubt as to the liberal intentions of the Councils in this behalf—the Madras Council has already declared itself in favour of adult suffrage—we consider that our demand for the transfer by Parliament of its responsibility over the whole field of administration in the provinces to the Legisla

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* [illegible]

tive Councils can be made with greater reason if the Councils are representative of a wider electorate than less than 4 per cent of the population as at present We are further of opinion that the political education of the people can be most rapidly achieved through the channel of electorates and that " the gradual development of self governing institutions " imperatively demands that the franchise should be more widely diffused than at present We therefore recommend that the present electorate should be doubled immediately Three Members of the Committee, on the other hand are of opinion that there should be no change in the electorate for a period of seven years from the coming into force of the new constitution, as it would be unwise to widen the electorate at the same time that extensive changes are made in the constitution and the powers of the Councils

Future extension of the Franchise.

—

ise we recom the power to second term provided that any change shall not be carried into effect unless it is passed at a special meeting of the Council and is supported by not less than two thirds of the members present We further recommend that unless a more rapid advance is made earlier in the direction of adult suffrage one third of the adult population should be compulsorily enfranchised in 1941 two thirds in 1951 and the whole in 1961 A minority of us would however prefer that the councils should be given the power after the expiry of their second term to increase the franchise if they so desire to not more than one fourth of the adult population and there after at the same rate at the end of every two terms

We would exclude Burma from the scope of the above recom mendations since that province has already travelled a long way on the road to adult suffrage the percentage of male voters to the population over twenty years of age being as high as 46 6 We therefore recommend that the question of further extension of the franchise in Burma should be left to the dis cretion of the Legislative Council

Size of the Provincial Councils

61 The next question which demands our attention is the size and composition of the Provincial Legislatures The present strength of the Legislative Councils does not in our opinion admit of effective representation of the various competing in terests The vast size of some of the constituencies—ranging from 4 000 to 8 000 miles in non Muhammadan to 37 000 square miles in Muhammadan rural constituencies in Madras to quote but one example—makes electioneering difficult and expensive and any contact between the electors and their representatives remote and intangible In order to make this representation more real we recommend that the size of the constituencies should be reduced and consequently that their number should be increased Bearing in mind the recom

mendations of the Provincial Governments and Committees, we suggest the following numbers for the various provinces :—

Name of Province	*Present Strength*	*Proposed Strength*
Madras	132	150
Bombay (excluding Sind)	95	114
Bengal	140	200
United Provinces	123	182
Punjab	94	150
Bihar and Orissa	103	150
Central Provinces	73	125
Assam	53	75
Burma	103	120

These figures taken in conjunction with our recommendation for the elimination of nominated members involve no inconsiderable increase over the present elected representation in the Councils

The Official Bloc.

62 In addition to elected representatives the councils now include official and non-official members appointed by the Governor The official element was retained under the constitution of 1919 in order to make it possible for the councils to obtain " first hand knowledge of matters " * likely to come before them The joint authors of the Report on Indian Constitutional Reforms however wished to see a convention established

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matters wrote the joint authors, except on occasions when the Government thinks it necessary to require their support the nominated official members of the Legislative Council should have freedom of speech and vote " * Unfortunately for reasons alluded to elsewhere neither of the conventions has been established

Opinions of the Provincial Committees.

63 The existence of the official bloc indiscriminately supporting the ministers has obscured the responsibility of the latter to the councils and hindered the development of parties It is accordingly not surpri ng that there should b

of opinion with regard

any other point Of t

tion of the Bengal Committee who would merely reduce its size and of the Burma Committee who would tentatively retain it for five years all are unanimous in demanding the abolition of the official bloc Some of the opinions expressed are noteworthy and will bear repetition Thus the Bombay Committee write :—

" So long as the ministers felt that they could rely on the official votes and the votes of nominated members they

*Report on Indian Constitutional Reform para 23?

have not felt any compulsion, and have made no serious efforts, to organise their own parties Their followers, on the other hand, realising that the ministers could maintain themselves and carry through their policy independently of them, have not felt the same obligation to support them as they would have felt if the ministers had been entirely dependent on their votes for their existence Party discipline has as a consequence, always been very slack The presence of the official bloc has thus had the effect of destroying to a considerable extent the responsibility of ministers to the elected portion of the Council, and in producing at times a feeling of irresponsibility among the elected members of the Council *

The Punjab Committee state as follows —

"We consider that the presence of the official element in the legislatures is detrimental to the growth of initiative and responsibility amongst the non official members which is necessary to ensure a smooth and equitable working of the constitutional machinery "† "We also feel that the presence of the official bloc with a solid phalanx of votes has, to some extent been responsible for keeping the communal issue alive in the legislature With the disappearance of the official bloc the formation of a heterogeneous ministry, depending for its existence on the combined support of the official element and co religionists of the respective ministers, will become impossible "‡

64 The Governments of Madras, Bombay, Bihar and Orissa and Assam recommend complete exclusion of nominated official members while those of the Punjab and the United Provinces would merely retain them for the purpose of speaking in explanation of ministerial policy, but not for voting in support of it The Government of Burma would retain the official bloc pending a vote of the local Council passed by a substantial majority, demanding its elimination The Government of Bengal stands alone in recommending the retention of the official bloc though in reduced numbers **and of the Provincial Governments.**

The Government of the Punjab state as follows —

" while it (the official bloc) has assisted stability and promoted the interests of sound and impartial administration its presence has as we have already shown produced an element of unreality in the responsibility of ministers who have been able thereby to supplement deficiencies in the votes of their followers If real progress is to be made in trying out the principles of responsible govern

*Report of the Committee appointed by the Bombay Legislative Council to co operate with the Indian Statutory Commission 19[illegible]9 para [illegible]

†Report of the Punjab Reforms Committee 19[illegible]9 para [illegible]

‡Ibid para 97

ment we feel that the official bloc should disappear as far as voting power is concerned"*

The Government of Bihar and Orissa state as follows —

" it is undoubted that the existence of the official bloc alone has made it possible to work dyarchy since the introduction of reforms, without it there would have been no stability in the ministry But a considerable price has had to be paid for this, the knowledge that the ministers can count on the support of the official bloc has weakened the tie between the ministers and the council, the ministers have been regarded even in their own subjects as part of the official government and they have encountered a hostility which possibly would not have existed if the ministers had been recognised to be wholly dependent on the council A further advance towards responsible government would seem to necessitate the removal of what is regarded as an obstruction between the ministry and the council and the disappearance of nominated officials "†

Our recommendation.

65 In view of the above opinions we have no hesitation in recommending that the official bloc should be entirely eliminated In order however to provid [illegible] of experts to assist in the cons [illegible] ore the Council we suggest that [illegible] ver to nominate not more than two experts for the purpose of those bills These members should be in addition to the normal strength of the Council but should not have the power to vote

Nominated non officials

66 The nomination of non official members has hitherto been justified on the ground of enabling the Governor to remedy the defects of election and secure the representation of communities and interests which would otherwise fail to obtain representation As we propose to make full provision for the representation of all such communities and interests by election we recommend that the nomination of non officials be entirely done away with As a result of our recommendation except to the extent indicated in paragraphs 49 65 80 and 93 the Legislative Councils will consist of elected members only

Communal electorates

67 One of the most difficult and at the same time most pressing of the problems with which we have to deal is that of communal electorates Throughout our tour in India the Joint Free Conference was confronted with insistent demands for the recognition of the special importance of particular communities as such and arguments were put forward to support the plea that only by separate electorates or special representation not only in the legislatures but also in local self governing bodies can

*Memorandum prepared for the use of the Indian Statutory Commission by the Government of the Punjab Part II page 39

†Confidential Memorandum for the Indian Statutory Commission prepared by the Governor in Council Bihar and Orissa page 3

the different interests of each community be safeguarded Before we attempt to put forward our solution of the problem it will be convenient to set down the case as it now stands and to see how far the principle of separate electorates has hitherto been conceded

The present position

68 At present the position is that Muslims have separate electorates in eight major provinces while in Burma they are included in a separate joint electorate with all other Indian voters The Sikhs in the Punjab have their own electorate, as have Europeans in Madras Bombay Bengal the United Provinces Bihar and Orissa and Burma, Anglo Indians in Madras Bengal and Burma Indian Christians in Madras and Karens in Burma In Madras non Brahmins a majority community are protected by the reservation of seats as are Mahrattas in Bombay Except in the cases mentioned above the interests of particular communities are safeguarded by the nomination of representatives to the legislature

Principles followed by us

69 Before we deal with the case of particular communities we will refer to the general principles which we propose to follow within the limits set by practical considerations The majority of us regard the principle of communal electorates as inherently vicious and unsound We desire to see them abolished throughout India as soon as possible We are prepared to recommend the retention of communal electorates only in exceptional circumstances Where circumstances render it unlikely that a minority will obtain adequate representation without special protection we would generally reserve seats for them in joint electorates We would at the same time leave the members of minority community free to contest seats in the general constituencies over and above those reserved for them

Muslims

70 As already stated the Muslims enjoy separate electorates in all provinces save in Burma In the six provinces shown below they have been granted representation in excess of that to which they would be entitled on a population basis In the Punjab and Bengal the Muslim share of the seats filled by election is less than would have been the case were population figures the sole criterion

Province	*Present Muslim Representation in the Provincial Legislatures*	*As it would be on a population basis (approximate only)*
Madras	13	7
Bombay	27	17
United Provinces	29	14
Bihar and Orissa	18	8
Central Provinces	7	2
Assam	12	11

Abolition of Communal electorates recommended

71 Two main questions which we have had to consider are, firstly whether the present system of separate electorates should be continued and if not what other system should be adopted, and secondly in either case, whether any special representation should be allowed to the Muslims over and above that to which they are entitled on a population basis or which they might obtain in open election It is beyond question that the majority of the Muslims throughout India desire to retain separate electorates and claim that in the provinces in which they are in a minority they should be granted representation over and above that to which the mere counting of heads might entitle them On the other hand, we are convinced that until Muslims and Hindus are brought together in common electorates there is little prospect of the evolution of a spirit of common citizenship without which the system of responsible government cannot satisfactorily develop It is a matter for regret that on this important and highly controversial subject it has not been found possible to arrive at a unanimous conclusion Some of us are strongly of the opinion that separate electorates which now form part of the electoral system should not be abolished except with the consent of the community concerned The majority of us however, have held that wider considerations should be allowed to override the wishes of particular communities

Representation in Provinces other than the Punjab and Bengal

72 In setting forth our conclusions we will deal first with the provinces in which the Muslims are in a minority viz Madras Bombay the United Provinces Bihar and Orissa the Central Provinces and Assam In these provinces the majority of us are of the opinion that separate electorates for the Muslims should now be abolished that they should be granted the privilege of having seats reserved for them in joint electorates either on a population basis or their voting strength whichever may be more favourable to them and further that they should be permitted to contest other seats in general constituencies beyond the number actually reserved for them The retention of this system is recommended until the introduction of adult suffrage in any province by which time it is hoped that the time may be ripe for the abolition of all special communal privileges We believe that in some provinces at any rate the result of this system will be to place the Muslims in at least as favourable a position as they now are under a system of separate electorates and that the way will be prepared for the growth of a better feeling between the two communities and the eventual abolition of all special privileges

Representation in the Punjab

73 In the Punjab we have followed for the two principal minority communities the Hindus and the Sikhs the same principle which we have applied to the Muslims in provinces in which they are in a minority For Hindus and Sikhs therefore in the Punjab we would reserve seats in joint electorates on a popu

lation basis or on voting strength, whichever may be more favourable to them, without prejudice to their right to contest other seats in general constituencies The Muslims in the Punjab will then be placed on the same footing as the Hindus in all the other provinces, save Bengal and Burma For Bengal we would adopt a different principle In this province the Muslims are in a clear majority and the position is not complicated by the presence of a third community, such as the Sikhs in the Punjab We can see no valid reason for granting to the Muslims any special protection As for the Hindus, they are sufficiently numerous and sufficiently influential to be allowed to take care of their own interests Moreover, Hindu opinion throughout India is definitely opposed to the principle of special protection for particular communities, save in very exceptional circumstances We therefore consider that in Bengal, as far as Hindus and Muslims are concerned, there should be no separate electorates and no reservation of seats, but that the two communities should vote together in a joint electorate **In Bengal.**

74 The attitude adopted by the Sikh community towards the question of communal representation in the legislature may be stated in a few words The Sikhs are prepared to come into a general electorate with no special protection for their own community, provided that this principle is generally accepted If, however, other communities are to be given special protection, the Sikhs demand that they should not be placed in a worse position We accordingly recommend that until the introduction of adult suffrage, seats for the Sikhs in all provinces in which they are in a minority, should be reserved in joint electorates on a population basis or their voting strength, whichever is more favourable to them, without prejudice to their right to contest other seats in the joint electorates In explanation we may say that it is not our intention that the Sikhs should have representation in a province unless they have the minimum population necessary to entitle them to it **Sikhs.**

75 The term "depressed classes" is frequently used in a loose sense to connote not only members of the communities classed as "untouchable," but criminal tribes, aboriginals and other backward communities It is necessary, therefore, to define exactly the sense in which we use the term "depressed classes" in our proposals for their representation in the legislatures We would confine this term to those who are classed as "untouchable," leaving it to the local governments to draw up lists of the castes which fall within this category, as has been done by the Madras Government in the Madras Electoral Rules, Pt I, Rule 3 Section 3, sub section (b) (1) We consider that similar lists should be drawn up by all provincial governments, exclusive of Burma, where the problem of depressed classes is not found **Depressed Classes Definition of.**

Population

Population in Millions	
Madras	6½
Bombay	1½
Bengal	11½
United Provinces	13
Punjab	2½
Bihar & Orissa	5
Central Provinces	[illegible]
Assam	1½

76 Here we may refer to the question of the population numbers of those communities which are to be considered as "depressed" for the purpose of the special representation which we propose to assign to them There has been considerable difference of opinion on this point as is evidenced by the fact that the figures supplied to us by the several governments amount to 44½ millions, as shown in the margin, while the figures quoted by the Hartog Committee on Education amount to 29¾ millions We may note that whereas the Hartog Committee quote a figure of 7 89 millions for the United Provinces, Part III of the Report on the working of the system of Government prepared by the Government of the United Provinces for the Statutory Commission, states that "almost thirteen millions" of the total Hindu population of that province are regarded by orthodox Hindus as untouchable, *vide* paragraph 3 of Note on the position of the Depressed Classes' For our own purposes we have adopted the figure of 44½ millions

Method of selection of representatives

77 As regards the method of selection of the representatives of the depressed classes we have considered nomination separate electorates and joint electorates Nomination we have ruled out partly on the ground that this method fails entirely in educative effect, partly because nominees lack independence and cannot always be expected to vote without regard to the supposed wishes of the authority who nominated them and partly because the representatives of the depressed classes who gave evidence before us were generally opposed to the method of nomination

In Madras

78 he Madras
Presid bounds of
practic depressed
classes In the Southern Presidency this community is better educated better organised and altogether politically more advanced than in any other part of India Although we are generally opposed to any extension of the vicious system of communal electorates the necessity for advancing the political education of the depressed classes is so urgent that we recommend that separate electorates should be formed from the castes named in the Madras Electoral Rule referred to above, for a period of ten years, after which separate electorates should be abolished and seats should be reserved for them in joint electorates

In other Provinces

79 In other provinces excluding Bombay and Assam where local conditions have made it convenient to adopt a slightly different method we recommend that seats should be reserved for the depressed classes as defined by the local governments, in joint electorates We would allot them seats in the various provinces as follows —

Madras	14	(10)
Bombay	8*	(2)
Bengal	8	(1)
United Provinces	10	(1)
Punjab	6	(0)
Bihar and Orissa	6	(2)
Central Provinces	8	(4)
Assam	9†	(0)

(NOTE—The figures in brackets show present representation, which in every case is by nomination)

In the Bombay Presidency we recommend that seats be reserved for the depressed classes in joint electorates on a population basis or on their voting strength whichever is more favourable to them

For Assam we recommend that nine seats should be reserved in the joint electorates for the backward and depressed classes in the Surma valley and for the indigenous primitive races and backward and depressed classes in the Assam valley As in other provinces we would leave it to the local government to draw up a list of these classes

80 Akin to the problem of the "depressed classes" is that of "backward classes among whom may be counted aboriginals criminal tribes and others among the less advanced of the inhabitants of British India In Madras and Assam one member is at present nominated to the Provincial Legislature to represent backward tracts We would recommend the continuance of this representation leaving it to the local governments to form an electorate if possible or otherwise to fill the seat by nomination We would further give five representatives to the backward classes in the United Provinces exclusive of the ten already allotted to the depressed classes This special representation appears to be called for in view of the very large number of the inhabitants of the United Provinces who appear to fall within this category One estimate puts the total number of the backward classes in this province excluding the "untouchables", at no less than sixteen millions These five seats we would reserve in joint electorates for persons whom the local government may from time to time declare to fall within this category In Bihar and Orissa where several aborigines now find places in the Provincial Legislature through election we would reserve three seats in a joint electorate for the aborigines and the backward and hill tribes **Backward classes**

81 Opinion among the Indian Christians on the subject of their representation by separate electorates appears to be divided As we understand the position Indian Christians would be prepared to abandon separate electorates because they realise that it **Indian Christians.**

*This is an approximate estimate only

†This figure includes representatives of backward classes and indigenous and primitive races

is a distinct disadvantage for them to be shut off politically from the bulk of their countrymen If, however, separate electorates are to continue for other communities, they would desire to retain them for themselves We have already stated our objection generally to separate electorates We consider that Indian Christians, who as a rule have a higher percentage of literates than other communities, will be able to hold their own in joint electorates, if seats be reserved for them We accordingly recommend that Indian Christians should have seats reserved for them in joint electorates and should be free to contest other seats in general constituencies We would allot to them by this method seats as under —

Madras	6
Bombay	1 in Bombay City
Bengal	2
United Provinces	3
Punjab	2
Bihar and Orissa	2
Assam	1

Europeans

82 It is clear to us that Europeans must continue to obtain their representation through separate electorates, if only for the reason that they are generally unable to speak the language sufficiently fluently to address a general constituency in the vernacular We therefore, consider that Europeans should continue to have separate electorates We would grant them seats as under —

Madras	2
Bombay	2
Bengal	7
United Provinces	2
Punjab	1
Bihar and Orissa	2
Assam	1
Burma	2

As regards the Central Provinces, where at present one member is nominated to represent both Europeans and Anglo Indians, we would form a general constituency of Europeans and Anglo Indians returning two members

Anglo-Indians.

83 The case of the Anglo Indians stands on a slightly *different* footing from that of either the Europeans or the Indian Christians We desire that, as far as possible Anglo Indians should learn to consider themselves citizens of India having joint interests with the bulk of the inhabitants of the country With this object in view we would where possible grant them representation in joint electorates by reservation of seats Our proposals as regards the Anglo Indian community are as follows —

For *Madras* one member to be returned by a separate electorate and one seat to be reserved for them in a joint

electorate In *Bombay*, following the recommendation of the Provincial Committee we would give them two seats in a separate electorate In the *United Provinces* we recommend three seats, in the *Punjab* one, in *Bengal* four, and in *Bihar and Orissa* one, in each case the seats being reserved in joint electorates In *Burma*, where the Anglo Indians at present have one seat, we would grant them two For the *Central Provinces*, as already stated, we would give two seats to a joint constituency consisting of Anglo Indians and Europeans

In order that the members elected may be really representative of the Anglo Indian community we would suggest that in the case of joint electorates the candidates should either be selected from a panel put forward by recognised Anglo Indian associations or that election should be conditional on obtaining a certain percentage of the votes not only of the Anglo Indians, but of the other electors in the constituency

84 The Karens in Burma at present enjoy the privilege of electing five representatives to the Local Council by a separate electorate We would continue this privilege to them and increase the number of their representatives from five to seven — **Karens in Burma.**

85 We consider that Indian representation in the Burma Legislative Council should be on the same basis as at present but that their number should be increased in proportion to the increase in the total membership of the Provincial Council — **Indians in Burma**

86 The non Brahmins in Madras and the Mahrattas in Bombay have hitherto been protected by the reservation for them of a certain number of seats It has become clear that the non Brahmins in Madras stand in no need of any special protection and are well able to hold their own in general constituencies We therefore consider that the reservation of seats for non Brahmins in Madras should be abolished As regards the Mahrattas in Bombay the reservation of seats for them followed out of the reservation of seats for non Brahmins in Madras As in Madras experience in Bombay has shown that the *Mahrattas are sufficiently strong in the constituencies in which* seats are now reserved for them to be able to hold their own We do not consider that the reservation of seats for Mahrattas can any longer be justified and we therefore propose to abolish this reservation also — **Non Brahmins and Mahrattas**

87 We are satisfied that the presence of men whether Indian or English qualified to speak with knowledge and authority on the various questions connected with the development of commerce and industry in India adds a valuable even an essential element to the legislatures Legislation connected with or affecting commerce and industry is likely to be increasingly important for many years to come and we entirely agree that no legislative body would be complete without the presence of representatives of these interests It is clear that few if any Europeans can — **Commerce and Industry**

ever hope to be elected by a general constituency in India and if special electorates are to be retained for European commerce it follows that we should not be justified in abolishing the special representation for Indian commerce Similar arguments apply with almost equal force to the case of the planters and the mining industry The following are our proposals for the representation of commerce and industry —

In *Madras* we would increase the number of representatives of trade and commerce from five to six by allotting one additional seat to the Southern India Chamber of Commerce In *Bombay* we would increase the seats from seven to eight and would allot the eight seats four to Europeans and four to Indians it being left to the Government of Bombay to decide the details of the actual distribution In *Bengal* we would increase the number of seats from fifteen to twenty one which we would allot fourteen to European and seven to Indian commerce In the *United Provinces* we would increase the present representation from three to five In the *Punjab* we would leave the present representation of two of whom we consider one should be elected to represent commerce and the other to represent industry In *Bihar and Orissa* we would increase the representation from one to two In the *Central Provinces* we would leave the figure at two as at present In *Assam* where there is one representative we would leave the figure unchanged As regards *Burma* we recommend that three representatives should be allotted to Indian trade and commerce in place of one elected member as at present The other seats we would allot as follows —

Burma Chamber of Commerce	4
Burmese Chamber of Commerce	2
Chinese Chamber of Commerce	2
Rangoon Trades' Association	1

Planters 88 At present planters have separate representation in Madras Assam and Bihar and Orissa We would continue the representation in Madras as at present with one planting representative In Assam we would increase the number from five to seven in Bihar and Orissa from one to two In each case election should be by special constituencies

Mining Industry 89 The mining industry at present has special representation in Bihar and Orissa and in the Central Provinces We would make no change in the present representation reserving two seats for Bihar and Orissa and one for the Central Provinces in special constituencies as at present

Labour 90 We have devoted considerable attention to the question of the adequate representation of Labour in the legislatures We recognise that unorganised labour which term includes the vast majority of the labouring classes in India must remain unrepresented until the franchise has been lowered to a sufficient degree

to enable them to win repres[illegible] the general constituencies We believe however that India [illegible]on the threshold of a great industrial development and we regard it as of the highest importance that means should be provided by which organised labour may be enabled to make its wants known in the legislatures through representatives of its own The best means of attaining this object will we consider, be by establishing separate electorates for labour wherever possible We would therefore propose the following representation for labour —

Madras	1
Bombay	4
Bengal	3
United Provinces	2
Punjab	1
Bihar and Orissa	2
Central Provinces	2
Assam	3

In the case of Bombay where industrial labour is more highly organised than elsewhere we would propose to reserve four seats for labour in four general constituencies one in Ahmedabad, one in Sholapur and two in Bombay City In Assam we propose that the three representatives should be elected by labourers employed on tea estates In the other provinces we would propose to establish separate electorates for labour

91 We consider that landholders should continue to have representation through special constituencies In view of the increase which we propose in the numbers of the provincial legislatures we would generally increase the numbers of the landholders' representatives except in Bombay, as follows — Landholders

Madras	7
Bombay (excluding Sind)	2
Bengal	5
United Provinces	16
Punjab	4
Bihar and Orissa	8
Central Provinces	5

Of the sixteen representatives in the United Provinces eight should be elected by the British Indian Association six by the Agra Zamindars Association and two by the Muzaffarnagar Zamindars Association

In the Punjab we would propose to form a joint electorate for the four landholders seats reserving one seat in this constituency for a Hindu one for a Sikh and two for Muslim landholders

92 We would leave the representation of the universities at the same strength as at present except in the case of the United Universities.

Provinces where we consider that the existence of the three Universities of Allahabad Agra and Lucknow should be recognised by giving them two seats instead of one In the method of election of university representatives we propose a modification of the present system We consider that in order to secure a more adequate representation of learning and the return ... fications the ... the Senate, ... University

Women

93 We are unanimously of opinion that steps should be taken to secure the representation of women in the provincial legislatures Except in the case of certain advanced parts of India it seems clear that women cannot at present expect to obtain representation to an adequate extent through the general constituencies We therefore consider that in every province five per centum of the total seats in the Provincial Legislatures should be reserved for women We would leave it to the local governments to determine how these seats should be filled We would prefer that the method of election should be either through joint or separate electorates but if this be found impracticable we think that women might obtain representation by nomination

Life of the Provincial Legislature

94 There is a general consensus of opinion that the present term of the Councils namely three years is too short to admit of the Councils or the ministers being able to carry out any sustained programme of work We therefore recommend that the term should be extended to four years

Powers of the Provincial Legislature

95 Subject to the reservations made in this behalf in paragraph 98 we recommend that the legislative power in the provinces should be vested in the Governor as representative of the King Emperor and the Legislative Council and in the case of the United Provinces also the Senate The local legislature should have the power to make laws for the peace and good government of the province in respect of all provincial subjects excluding those subjects which are assigned to the Central Government of India It should not however be empowered without the previous sanction of the Governor General in Council to repeal or alter as to the province any law relating to a provincial subject enacted by the Indian Legislature, before the commencement of the new constitution

... adminis ... Governor ... of 1919,

all subje...

to certify legislation essential for the discharge of his responsibility for reserved subjects will naturally disappear The same result will follow in regard to the power under proviso (a) to Section 72D (2) of the above Act to restore grants refused by the Legislature in respect of reserved subjects

Financial safeguards.

97 The control of the Legislature over legislation and of the Legislative Councils over budgets would thus become complete

In regard to budgets however, following the well known principle of the British constitution* and the provisions of Section 72D (2), proviso (c) of the Government of India Act, we recommend that no proposal for the appropriation of any provincial revenues or other moneys for any purpose shall be made, except on the recommendation of the Cabinet. As a further safeguard we would also retain with a slight modification the provision contained in Section 80C of the above Act and make it unlawful for any member of the local legislature to introduce without the previous sanction of the Cabinet any measure affecting the public revenues of the province or imposing any charge on those revenues.

The Governor and the Legislature; Veto over Provincial Legislation

98. In accordance with our scheme of provincial autonomy, we recommend that the power to assent to or withhold assent from bills passed by the local legislature should vest in the Governor. While recognising the right of each province to legislate for its peculiar needs we cannot however ignore the close inter relation between the provinces and the repercussions of legislation passed in one province on its neighbours or even further afield. It is therefore desirable in the general interests of the country that the Central Government of India should be invested with the general power to co-ordinate and if need be to control legislation within the provinces. On the other hand we regard it as inconceivable that autonomous provinces would submit to such control at the hands of a bureaucratic Central Government. We would not therefore allow any power of veto over provincial legislation to the Governor General in Council until such time as the Central Government has been reconstituted in the manner proposed by us. If our proposals for the Central Government are accepted all those departments which most intimately concern the provincial government will be transferred to the charge of ministers responsible to the Central Legislature. The Governor General in Council acting in matters concerned with the transferred departments on the advice of his ministers will then occupy a position approximating to that of a constitutional ruler. In such circumstances we would allow to the Governor General in Council power of control over provincial legislatures which we are not prepared to concede to the head of an irresponsible bureaucracy. We suggest that when the Central Government has been so popularised, the Governor General in Council might have such power as is now exercised by the Governor General of the Dominion of Canada. We would give him the power to assent to bills reserved for his consideration and to disallow provincial legislation within twelve months from the date of its receipt by him.

Governor's power to authorize expenditure in emergencies

99. Vis-a-vis the Cabinet we have proposed to grant the Governor extraordinary powers to be used where necessary for the maintenance of the peace and tranquillity of the province. As an

* Anson—"Law and Custom of the Constitution, V Edition, Volume I page 234

essential corollary of those powers we consider that the Governor should have the power in cases of emergency to authorize such expenditure as may be necessary for the safety and tranquillity of the province

Question of a Second Chamber

100 In discussing the constitution of the Provincial Legislatures we are naturally led at this stage to the question of second chambers The establishment of such chambers is one of the points to which inquiry under Section 84A of the Government of India Act of 1919 is especially directed The authors of the Joint Report after weighing the arguments pro and con negatived the proposal for their establishment but they were of opinion that the need for them may be the more felt "as provincial councils approach more closely to parliamentary forms"* As we now propose that responsible government should be set up in the provinces it becomes necessary to reconsider the question

Arguments against.

101 The practical objections to second chambers in the provinces have been succinctly stated in paragraph 258 of the Joint Report We feel that the difficulty alluded to therein of securing in several provinces a sufficient number of suitable member for two Houses will somewhat increase with the enlargement of the size of the local and central legislatures under our proposals The apprehension that the presence of large landholders in the

of that class

be found to

pear to us to

have touched the root of the matter when they refer to the danger of a second chamber composed as it is likely to be predominantly of moneyed and landed interests proving too strong a barrier against legislation affecting such interests There is also no doubt that the existence of a second chamber renders the working of the legislative machinery more cumbrous and complicated than would be desirable, at least in the early stages of the new constitution To these grounds may be added the following To fulfil its proper function of a revising chamber it is essential that the Upper House should contain men who are able to view their responsibilities from a standpoint different from that of the Lower Chamber But it seems unlikely that such will be the case in most of the provinces Again where the second chamber agrees with the Lower House on any measure it seems unlikely that the Governor will be able to exercise his powers of veto in regard to that measure whereas we feel that in the case of measures especially those dealing with the amelioration of the condition of women or the depressed classes should the Lower Chamber in any province be disposed to take too conservative a view the Governor acting in the light of western civilisation would be in a stronger position to exercise his power of veto if he had not also arrayed against him the opinion of the Upper Chamber We consider also that in the present financial state

* Report on Indian Constitutional Reforms para 258

of the provinces the financial aspect of a second chamber, with its paraphernalia of officials and the travelling and other expenses of its members should not be ignored

102 In arriving at a conclusion on this subject we are influenced in some measure by the lack of unanimity in the opinions presented to us The Governments of Madras, Punjab, Bihar and Orissa Assam and Burma are definitely opposed to second chambers, while those of Bombay, Bengal and the United Provinces support them on grounds which do not carry much conviction The provincial committees of Madras Bombay, Bengal and the United Provinces support, while the rest oppose, the proposal Non official opinion has not expressed itself very clearly on the point, but the Nehru Report recommends single-chambered legislatures for the provinces *Divergence of opinion.*

103 If we turn to the actual experience of other countries we find that while with minor exceptions, the unitary states of Europe have adopted the English model of two chambered legislatures, there has been according to Keith " a decided tendency " in the Dominions of the British Empire ' to create single chambered legislatures in place of the original bicameral system "* *Experience of other countries*

104 On consideration of the above facts we come to the conclusion that a second chamber in the provinces is unnecessary at present and might give rise to practical difficulties We would make an exception in the case of the United Provinces where the existence of a large landed aristocracy provides suitable material for a second chamber Accordingly we propose that such a chamber should be created in that province tentatively for a period of 10 years on the expiry of which the matter should be further considered *Our conclusion*

105 We suggest that this chamber which may be styled " Senate should consist of 50 members to be elected by the following constituencies — *Constitution of the Senate in the United Provinces*

Name of Constituency	*Number of Representatives*
British Indian Association	4
Agra Province Zamindars' Association	3
Muzaffarnagar Zamindars' Association	1
Indian Trade and Commerce	2
European Trade and Commerce	2
Depressed Classes	2
General Constituencies	36

Out of the thirty six general seats we propose that [illegible] should be reserved for Muslims in a joint electorate [illegible] basis of their population or voting strength whichever [illegible] to be more favourable to them without prejudice to th[illegible] to contest other seats The franchise for electors in t[illegible]

* Keith — Responsible Government in the Dominions " [illegible] Vol I p 391

stituencies should be the same as the present franchise for the Council of State We suggest that the representatives of the depressed classes should be elected by the members of the provincial Legislative Council belonging to the depressed and backward classes In regard to legislation, the second chamber should have concurrent powers with the Legislative Council, except that all money bills should be initiated in the Legislative Council only But budget and supplies should be voted by, and the ministry should be responsible to the Legislative Council only We suggest that differences of opinion between the two chambers should be settled at a joint sitting of both chambers, to be summoned by the Governor at his own instance or at the instance of either chamber

Other Proposals

Allocation of Provincial and Central Subjects

106 If our general recommendations on the scheme of the provincial and central governments are accepted it will be necessary to re examine the classification of subjects in relation to the functions of government as central and provincial subjects for the purpose of distinguishing the functions of local governments and local legislatures from the functions of the Governor General in Council and the Indian Legislature As we have not the necessary expert advice at our disposal to enable us to do so we recommend that the existing classification should be examined by a committee with the help of experts so as to bring it into consonance with our recommendations

Financial Proposals

107 Since the passage of the Government of India Act of 1919 specified sources of revenue have been placed at the disposal of the provincial governments for the purposes of provincial administration while separate sources have been placed under the control of the Central Government The provincial revenues depend upon sources which are not capable of any great expansion while the development of the nation building departments of Government will call for a [illegible]
essential for the successful [illegible]
spread of education for th[illegible]
the reach of all and for the opening up of new roads that power to raise the necessary funds should be placed in the hands of local governments The chief expanding sources of revenue, income tax and customs are in the hands of the Government of India The majority of us are strongly opposed to the policy of financing provincial governments through grants in aid from the centre So long as the provincial governments see that revenues raised in the provinces are at the disposal of the Central Government for purposes of which public opinion in the province may disapprove we believe that it will be found impossible to impose extra provincial taxation Nor do we believe that as long as the centre remains even partially under bureaucratic control the country will acquiesce in the imposition by the centre of the additional taxation which will certainly be

required Both logic and practical considerations demand that the grant to the provinces of self government should be accompanied by such re adjustment of their financial relationship with the centre, as will leave them financially as well as administratively autonomous The majority of us, therefore, consider that until the Government of India is constituted on a popular basis by the transfer of departments to Ministers all the revenues of a province should be at the disposal of the local government The provincial government, however, should be subject to the obligation to pay to the Government of India such amount as may be fixed and in such manner as may be decided upon by an impartial tribunal appointed conjointly by the local government and the Government of India Under our proposal all revenues, including those from customs, income tax and salt, would vest in the government of the province in which they were collected *An impartial tribunal, on which the Government of India and* the provincial government are equally represented, should then determine the amount of the contribution payable by a particular province to the centre In assessing the provincial contribution the tribunal would be able to consider the actual financial position and requirements of each province, the rich province would be required to pay a larger amount than its poorer neighbour No financial scheme that can be devised is likely to meet with general acceptance throughout India The scheme that *we have put forward is in accordance with the spirit of pro* vincial autonomy which underlies all our proposals We believe that its adoption will prove to be in the truest interests of the country as a whole

High Courts Transfer of control to the Central Government

108 We consider that the powers now exercised by the provincial governments in respect of the High Courts should, in future, be exercised by the Government of India, and that the same procedure should apply to the proposed High Court for the Central Provinces and Berar when it is created The faith of the people of India in the integrity of the High Courts has been one of the bulwarks of British rule which even the storm of political agitation has done nothing to shake Anything tending to undermine this faith would be fraught with grave danger to the future government of the country We therefore think it desirable that with the introduction of responsible government in the provinces the higher judiciary should be removed from the sphere of political influence We believe that the risk of this influence will be minimised by the transference of relations to the Central Government as recommended by us

Constitution of the High Courts.

109 Section 101 of the Government of India Act lays down certain rules for the constitution of the High Courts It prescribes that not less than one third of the judges of a High Court must be members of the Indian Civil Service Up to comparatively recent years all, or almost all sessions judges were members of this service, there was therefore an ample field for the recruitment from the Indian Civil Service of judges of the High Courts

Under present conditions, when many of the sessions judges are not members of the Indian Civil Service, the field of recruitment to the High Courts has become limited and we consider that there is no longer any justification for reserving one third of the seats in the High Courts for members of the Indian Civil Service. We, therefore propose that the present provision to this effect should be rescinded. We would however, retain the provision that one third of the judges of the High Courts should be barristers of not less than ten years standing and add that not less than one third should be advocates or vakils who are not barristers. We recommend further that the Chief Justice of the High Court should in all cases be a barrister.

The Services. Present position as regards the Provinces.

110. We have given very careful consideration to the question of the position of the Superior Services under the new regime. The present position in regard to these Services is that as a result of the Lee Commission Report recruitment for the All India Services which deal mainly with the reserved branches of administration remains in the hands of the Secretary of State in Council while that for the Services operating in the transferred field has been closed down and although the existing members of these Services retain their rights and privileges power has been delegated to local governments to recruit and organise their Provincial Services to replace these All India Services as they gradually disappear.

As regards the Central Government.

With regard to the Central Services control is retained by the Secretary of State in Council over the Political and Ecclesiastical Departments and over recruitment outside India to certain technical departments. But with these exceptions the power to recruit organise and control the Central Services has been delegated to the Government of India. The delegation by the Secretary of State, both to the Government of India and to the local governments is made subject to certain general conditions designed to safeguard the rights of existing members of the Services to ensure impartiality in making first appointments by utilising the services of the Public Services Commission or of permanent boards of selection when appointment is made otherwise than by a competitive examination and finally, to secure the observance of proper procedure and rights of appeal in disciplinary cases. Subject to these general conditions the organisation of the Services and the principles of pay and the conditions of service generally and the methods of making first appointments, as well as ordinary administrative control are entirely in the discretion

Present position examined.

of State in Council over the
he members of those Services
portant safeguard against the
possible consequences of unforeseen changes in India. But it is evident that control of this character over the agents of administration will be irksome to a popular government and tend to bring such a government into relations with the Secretary

of State which it is difficult in theory to justify The control, moreover, is exercised on the ground of the Services in question operating mainly in the reserved field But if, as we recommend, the distinction between reserved and transferred subjects is abolished and unitary governments set up in the provinces it must necessarily follow that the Services now reserved must be placed under provincial control To lay down that ministers responsible to a popularly elected legislature should be obliged to depend for the carrying out of their policies on an agency recruited and partially controlled by and owing allegiance to an outside authority would in our view result in conditions not less intolerable to members of the Services concerned than to the ministers themselves As stated by the Government of Madras The province must be free to recruit its own servants as and where it likes there can be no imposing upon it a body of men recruited under regulations from sources and on rates of pay prescribed by some outside authority *

Question of retention of Europeans in the Services

112 It has been argued that a proportion of Europeans of high quality is essential in the Indian Civil Service and the Police, and that they will not be obtained unless these two Services remain under the control of Parliament As we have had little experience so far of the recruitment to the new Provincial Services it seems too early to assume that suitable Europeans will not be forthcoming for the provincialised Security Services We trust that the importance of securing such recruits at least for some time to come will not be lost on the provincial governments and that the conditions of service will be devised specially to secure this end But it must be borne in mind that even if the flow of European recruits were to cease altogether a substantial number of Europeans would remain in the Services for a long time to come The situation therefore will not be so grave as might be supposed In regard to a similar contingency in the case of the other All India Services the Lee Commission were of opinion that the risk was not sufficient to outweigh the argument for carrying to a logical conclusion the constitutional change effected in the administration of the transferred departments The same argument applies equally to the conditions visualised by us

Our proposals.

113 Accordingly, we recommend that except in Madras and Bombay the case of which will be considered separately the provincial governments set up under the new constitution should be free to decide what proportion of the existing All India Services should be continued on the present footing and to what extent these Services should be provincialised, it being understood in either case that the existing members of the Services will continue to enjoy the protection already afforded to them We further recommend that should the governments decide to provincialise the Services in question due regard should be paid

*Memorandum submitted to the Indian Statutory Commission, para 38

to the adequate representation therein of all communities such as Hindus Muslims Sikhs Europeans Anglo Indians the depressed classes and others subject of course to the candidates for employment fulfilling the minimum requirements of efficiency

Special Provision for Bombay

114 In regard to Bombay we are prepared to go further and recommend that the remaining All India Services in that Presidency should be provincialised on the lines already followed in the case of the Services operating in the transferred field, all the prospects that the present members of those Services now enjoy being of course reserved to them In Madras on the other hand,

and for Madras

we suggest that while adhering to the programme laid down by the Lee Commission for the Indianisation of the two Security Services namely the Indian Civil Service and the Police those Services should remain All India Services as at present The remaining All India Services working on the reserved side in Madras should however be provincialised In order to ensure that a Minister shall be able to count on having his policy carried out by officers belonging to the All India Security Services we propose that the Governor should be empowered to replace on the recommendation of a minister an officer of one of these Services by another member of the same Service

Protection of the Services

115 The authority vested in the provincial government in respect of the Services will normally be exercised by the Governor in Council But in order to safeguard the members of the Services from political influence in the discharge of their duties we recommend that no order affecting emoluments or pensions no order of formal censure and no order on a memorial shall be passed to the disadvantage of any officer of an All India or Provincial Service without the personal concurrence of the Governor An officer belonging to an All India Service or appointed by the Secretary of State will further be entitled to appeal to that authority against any such order

Local Army

116 The grant of complete responsible government to any province is bound up with the question of the maintenance of law and order and internal security generally Experience has proved that civil disorders not infrequently arise which are too serious to be dealt with by the ordinary police force At present the civil authorities have the right subject to certain limitations to call upon the military to aid the civil power It is uncertain whether this right will be conceded to a responsible provincial government As regards the use of British troops it is obvious that provincial self government will not be a reality as long as provincial governments look to a foreign mercenary army for the enforcement of their policy Nor is it by any means certain that the British Government will agree to the use of British troops to enforce a policy for which they are not responsible and over which they have no control On the other hand the use of regular Indian troops involves certain risks In time of communal tension it can hardly fail to happen that the sympathies of the men who compose the regular army are involved on one

side or the other In our opinion it is of the utmost importance that the discipline of the army should not be strained through its use to quell communal disturbances and that other means than the use of regular troops should be found for dealing with internal disturbances in provinces which have been granted complete control over their own affairs Further, there exists in India a very widespread belief that the British Government has no real intention of ever allowing the people of India to obtain genuine self government , that the army will continue to be maintained as a weapon in the hands of the British Government for the retention of India in subjection , and that the alleged unfitness of Indians for high command will continue to be put forward as an argument against the final handing over into Indian hands of responsibility for the government of the country It is in our opinion of the utmost importance that the British Government should lose no further time in affording to the people of India definite proofs that such suspicions are unwarranted The grant to provincial governments of the right to raise a local army for the maintenance of internal security would be a long step in this direction while at the same time obviating some of the risks which we apprehend from the use of regular troops Financial considerations alone render it certain that no provincial government will raise a force larger than is actually required The experiment—for experiment it will be—is not one that we would forthwith recommend for trial throughout India but we see no real risk and much advantage in its adoption in the South of the Peninsula The majority of us accordingly recommend that it should be open to the Governments of Madras and Bombay to equip and maintain a local military force and a local militia The minimum numbers of the force or militia its equipment and qualifications should be prescribed by the Government of India The Viceroy and the Commander in Chief should always be entitled to inspect the troops and pass orders for their efficiency and maintenance but they should not be entitled to direct a reduction of the force or any other step which will render the force less efficient

117 The separation of the executive from the judicial functions has long been a burning question in Indian politics but for various reasons into which we need not enter its solution has been delayed With the conferring of responsible government on the provinces the separation of the two functions must be left to the sole discretion of the provinces But we are of opinion that the introduction of this reform should no longer be delayed and suggest that immediate steps should be taken to formulate schemes to give effect to such separation (Separation of Executive from Judicial Functions)

118 The population of the five settled districts of the North West Frontier Province according to the census of 1921 totals 2 251 340 of whom Muslims number 2 062 786 Hindus 149 881 and Sikhs 28 040 No system of representative government has hitherto been introduced into this province and whether (North West Frontier Province.)

we have regard to its geographical position to the warlike character of its inhabitants or to their lack of experience of the working of representative institutions it is clear that the future government of the province involves problems of the greatest importance Quite apart from the factors to which we have alluded is the fact that the North West Frontier Province is and seems likely to remain a deficit province The introduction of any system of representative government would in some directions involve an increased expenditure and thus widen the gap which at present exists between receipts and expenses The financial problem is one for which we are not in a position to offer any solution As regards the main question at issue it appears clear to us that the time has arrived when a beginning should be made of the introduction into the North West Frontier Province of a system of representative government We accordingly recommend that reforms should be introduced into the North West Frontier Province on the lines of the Morley Minto Reforms After a constitution on these lines has been in operation for a period of ten years we consider that the question should be further examined with a view to seeing what advance can then be made

Relations between the Governor General or the Governor General in Council and the Provincial Governments

119 In formulating our proposals for the reconstitution of the provincial governments our main object has been to establish in the provinces governments that shall be fully responsible to popularly elected legislatures and to endow them with a full measure of provincial autonomy We now come to a consideration of the relations which should exist between the Governor General, or the Governor General in Council and the provincial governments In dealing with the question of the power of veto over provincial legislation we have made it clear that we are not prepared to recommend the granting of any extensive powers of interference with the provincial legislatures to a bureaucratic Central Government This principle forms the basis of our recommendations on this subject While however we would normally restrict the power of interference of the Governor General within narrow limits we would arm him with ample powers to deal with any emergency which may arise in the provinces

The following are our proposals —

(1) We are of opinion that the powers of superintendence and control of the Governor General in Council should be exercised only for such purposes as may be specified , and that whenever there is a difference of opinion between the [illegible]

governments concerned provided that if and when a Supreme Court is established in India, that body shall be the final judge in such matters Pending the establishment

of a Supreme Court we would provide that in case of disagreement between the two governments concerned as to the composition of the tribunal, the matter should be decided by a tribunal consisting of three or more persons holding the office of Chief Justice of a High Court in India

(2) We would give to the Governor General power to supersede a local government and carry on the administration in case of breakdown or inability to maintain law and order in the province We would not grant a similar power in case of financial insolvency We would however, empower the Governor General to take any steps that he may consider necessary to enforce the payment of any debt due by a local government

(3) Where the Governor General considers that an order issued by a provincial government should be overruled for the purpose of maintaining peace and tranquility he should have the power to do so Similarly when no order has been issued by a provincial government the Governor General should have the power to issue any order necessary in his opinion for the maintenance of peace and tranquility in the province concerned

Two further extraordinary powers we would give to the Governor General and the Governor General in Council respectively subject to the approval of the Secretary of State Firstly, subject to the approval of the Secretary of State we consider that the Governor General should have power to suspend a provincial legislative council for such period as he may direct and while such order of suspension is in force the Governor should have all the powers which the Governor or the Governor in Council might exercise with the consent of the legislative council

Secondly we consider that the Governor General in Council should have the power with the approval of the Secretary of State and by notification to take any province under the immediate authority and management of the Governor General in Council and thereupon to give all necessary orders and directions respecting its administration and provide for it in any manner he thinks fit

CHAPTER V

THE GOVERNMENT OF INDIA AND THE INDIA OFFICE

The Government of India

The Central Government: Present position

120 The Government of India Act of 1919, left the constitution of the Central Government practically unchanged The authors of the Joint Report recognised that " it was no longer sufficient to administer India , it was necessary also to satisfy her political aspirations "* But the only manner in which they thought this could be done consistently with their principles was to increase the Indian element in the Executive Government by the introduction of one more Indian member , and to associate with the Government a Legislative Assembly with an elected majority By this means they hoped to ensure " that the wishes of the country are accurately and regularly represented to the Government and that its action is adequately criticized "† No responsibility was offered to the members of the Assembly, it being clearly laid down that the beginning of responsibility in the Centre must be the sequel to responsible government in the Provinces ‡

The working of the Central Government reviewed

121 The question with which we are now confronted is whether and to what extent an advance on this position is desirable or necessary To answer this question it is necessary to survey briefly the position of the Central Government vis a vis the Assembly during the last ten years We believe that an impartial verdict on that survey must be that far from introducing ' an element of strength into the Central Government ' § as its authors fondly believed the scheme has resulted in a weakening of the Central authority which can only be described as deplorable The Government of India is technically responsible only to the Secretary of State but its immediate juxtaposition with an elected majority in its Legislative Assembly necessarily rendered it extremely sensitive to the expression of opinion in that Assembly Its constitutional responsibility to an outside authority, however, made any consistent accord between it and the Assembly impossible , while its natural desire to carry the Assembly with it in its proposals coupled with the fact that it could not count on its stable support, made its own action uncertain and hesitating Nor was the position redeemed by any compensating advantage in the shape of responsibility in the Assembly The elected majority unable to bend the Executive to its ... by statu-
tory ... ne restive
and a ... Executive
thus ...

* Report on Indian Constitutional Reforms, para 265
† Ibid para. 270
‡ Ibid para 289
§ Ibid para 265

The situation is vividly described by an acute observer,* himself an ex member of the Assembly, as follows :—

"The position of the Executive vis à vis the Legislature, is far from comfortable or enviable . The Government are therefore obliged to resort to all possible arts of conciliation, or exploitation of the differences between the different parties and sections Opposition has to be overcome by coaxing and cajolery, or bought off by favours or concessions From the point of view of the opposition it may perhaps be considered desirable that the government should be kept in a dependent condition and a pliant mood But there are limits to pliancy, and the statute prevents the opposition from obtaining the mastery of the situation From the point of view of the administration it is a source of weakness to the Executive that they should be liable to be defeated at any moment by an irresponsible legislature Uncertainty as to the decision of the legislature and the want of an assured majority therein must affect that sense of confidence which is essential to firmness of administration and continuity of policy"

The position, in our opinion is intolerable and cannot be continued

Necessity for strengthening the Central Government; partial responsibility to the Legislature recommended

122 We have referred elsewhere to the need of a strong Central Government co ordinating and in a measure controlling the Provinces to keep them from drifting apart We consider that the fuller the measure of autonomy to be exercised by the Provinces the greater will be the need for a strong Central Government We are therefore at one with the Authors of the Joint Report in their desire to "introduce a new element of strength into the Government" We regard the suggestions which have been made to us to revert to the pre reform Legislature, with an official majority as wholly impracticable Considerations of justice as well as political expediency forbid such a course The only line open to us seems to be to introduce an element of responsibility in the Central Government so as to broad base it on the support of the Legislature

Reservation of Defence and Foreign and Political Relations Safeguards

123 In making this recommendation we are not oblivious of the difficulties which stand in the way of establishing complete responsibility in the Central Government at the present day We therefore propose to proceed in the first instance by the transfer of all subjects except the defence of India and its relations with foreign and the Indian States to the control of ministers responsible to the Legislature As a safeguard in the administration alike of the subjects transferred and those reserved we would provide that it should not be competent to the Legisla

*Sir P S Sivaswamy Aiyer Indian Constitutional Problems page 333

ture without the previous sanction of the Governor General, to deal with any measure affecting —

(a) the public debt or public revenues of India or imposing any charge on the revenues of India, or

(b) the religion or religious rites and usages of any class of British subjects in India, or

(c) the discipline or maintenance of any part of His Majesty's military, naval or air forces, or

(d) the relations of the Government with foreign princes or states,

or any measure

(i) regulating any provincial subject or any part of a provincial subject which has not been declared to be subject to legislation by the Indian Legislature or

(ii) repealing or amending any Act of a local legislature, or

(iii) repealing or amending any Act or Ordinance made by the Governor General

Dyarchy in the Centre justified

124 The proposal we have just made exposes us to a charge of inconsistency in recommending for the Centre the system of dyarchy which we have discarded in the Provinces We admit the force of the charge but would state in extenuation that the subjects of defence and foreign and political relations which we have reserved—to use the current phraseology—are sufficiently distinct and separable from the other functions of the Central Government which we propose to transfer not to produce any of the complications which the working of the system led to in the Provinces Moreover short of a complete transfer of responsibility to ministers we can see no alternative to dyarchy which despite its inherent defects can as experience shows be worked with reasonable success given a certain amount of good will on both sides We believe that if our recommendations are accepted the requisite atmosphere for the working of the system will be created and that as a half way house dyarchy will be accepted and worked in a satisfactory manner

Composition of the Governor General's Cabinet

125 We propose that the Cabinet of the Governor General should consist of not more than two executive councillors and not more than six ministers The appointment both of the councillors and ministers should be made by the Governor General at his own discretion but we recommend that at least half the members of the Cabinet should be Indians We would further provide that one councillor or minister should be a member of the Council of State and the rest should sit in the Assembly and where they are not already members of the Legislature they should become such members *ex officio* Both the members of Executive Council and ministers should have the right to address either chamber of the Legislature but they should only have the right to vote in the chamber of which they are members

126 In an earlier part of this Report we have referred to the desirability of enlarging the size of our Legislatures We now propose that the Legislative Assembly should consist of 300 members For a population of 247 millions the number proposed gives a representation of one member to every 823,000 of the population It is interesting to note that the corresponding figures for the British House of Commons the French Chamber of Deputies, the German Reichstag and the American House of Representatives are 73,000, 65,000, 128 000 and 245,000, respectively

Legislative Assembly Proposed strength

127 In addition to the normal strength of the Assembly we suggest that the Governor General in Council should have the power to nominate ten experts to sit and speak in the Assembly, but without the right to vote

Appointment of experts

128 We have found ourselves unable in the time at our disposal and in the absence of any such concrete proposals as we have received in the case of the Provinces to work out in detail a scheme of distribution of seats The general principle we have adopted therefore is to accord to each community or interest the same proportionate representation as it now enjoys, with additional weightage in the case of some important interests, including Muslims In order to remove any inequalities in representation which this system of distribution might produce and also to provide for the inclusion of such officials as may be necessary, we recommend that the Governor General should be *empowered to nominate twenty members in addition to the* seven ministers and executive councillors We propose that the remaining 273 seats should be thrown open to election and distributed in the following manner —

Composition of the Assembly

	No of seats allotted
Hindus	104
Muslims	79
Depressed Classes	12
Sikhs	6
Europeans	17
Anglo Indians	3
Indian Christians	3
Landholders	10
Indian Commerce	8
Associated Chambers of Commerce (European)	3
Labour	5
Women	5
Burma	8
North West Frontier Province	6
Delhi	2
Ajmer Merwara	2
Total	273

Electorates 129 Except in the case of Europeans to whom we would concede separate electorates of their own on account of the language difficulty already mentioned we propose that the seats allotted to the other communities and to labour and women should be contested in joint electorates In the case of the depressed classes Sikhs Anglo Indians Indian Christians labour and women we would however, suggest that should election by joint electorates present any insuperable difficulty, recourse should be had to indirect elections under such rules as may be framed by the Government of India The constituencies for the landholders and Indian and European Commerce will of course be special

Election of the President and the term of the Assembly 130 We propose that the President of the Legislative Assembly should be elected by the Assembly from amongst its own members and that the term of the Assembly should be extended to five years

The Council of State 131 With the exception of an increase in its numbers we propose to make no change in the constitution of the Council of State As regards its strength we propose that it should be increased from 60 to 100 and that the seats be distributed amongst the various communities and interests in the same proportion in which they are now held We also recommend that the present proportion between the elected and nominated seats should be maintained

The retention of the Council of State composed on these lines and possessing all its existing powers might appear somewhat incongruous with the revised constitution we have proposed for the Government of India But while on the one hand it is unlikely that the use of the special and somewhat drastic powers of the Council will be invoked by a responsible Government of India on the other hand the existence of those powers might prove a valuable safeguard in contingencies which cannot at present be foreseen We are conscious of the magnitude of the changes we have recommended and the serious consequences which a breakdown of the new arrangements might entail We therefore feel no hesitation in recommending a retention of powers equally drastic to deal with such eventualities

The India Office

Secretary of State 132 [illegible] ry of State remains [illegible] In him is veste[illegible] id control over the Government of India and subordinate governments [illegible] impaired We must [illegible] the financial powers [illegible] Governments were relaxed very largely in 1921 Further the Secretary of State has resigned certain of his functions into the hands of the High Commissioner while his powers of control have been

considerably limited by the Fiscal Convention While, therefore, the statutory powers of the Secretary of State remain unimpaired in theory, in practice they have been limited considerably since the introduction of the Reforms Over provincial transferred subjects the powers of interference of the Secretary of State have been limited by rules issued under Section 19A, Government of India Act, and can be exercised only for certain specified purposes In the exercise of his powers of control the Secretary of State's decision is generally final In certain respects, however, he can only act with the concurrence of the majority of his Council The most important respects in which his authority is so limited are (1) in connection with the Services and (2) in financial matters

Delegation of powers by the Secretary of State to the Government of India Raising loans

133 We have here some definite proposals to make in pursuance of the policy of transferring power, wherever possible, from the Secretary of State to the Government of India We have had the advantage of hearing the opinions of high financial authorities on the question of the agency which can most conveniently be employed for the raising of loans on behalf of the Government of India We have come to the conclusion that there is much advantage to be derived from bringing the Government of India into direct relations with the London money market and we therefore recommend that the power to raise loans should be vested in the Government of India and that it should be left to it to employ such agency as may seem desirable for the purpose of raising loans

Recruitment of the Services

In connection with the recruitment of the Services, it is clearly inconsistent with the principles of responsible government that such recruitment should be vested in any authority outside India We therefore propose that recruitment for the Services should be in the hands either of the Government of India or of the provincial governments as the case may be, and that the governments concerned should be free to choose their own agency for this purpose

Appointment of delegates to International Organisations

A further question which we have considered is that of the appointment of representatives of India to international organisations such as the League of Nations Here again we consider that all such appointments should be made by the Government of India and not by the Secretary of State It would be natural if the Government of India were to employ the High Commissioner for India as their agent in the matters to which we have referred but we would not limit their discretion and would leave it to them to decide upon the agency which they may desire to employ

Limitation on power of Secretary of State

134 The proposals which we have put forward will automati-
cally [illegible]

[illegible] Government of India Act

will restrict the Secretary of State's powers of intervention over the whole provincial field In the case of the subjects transferred to responsible ministers in the Central Government we consider that the same rules should apply Moreover, we contemplate that further conventions, of the nature of the Fiscal Conventions will tend to become established As the power of the popular Assembly increases the authority of the Secretary of State must wane

The Council of India

135 This brings us to the Secretary of State's Council On the question of the retention or abolition of the Secretary of State's Council the opinion of the Committee is divided To some of us it appears that the Council is not only unnecessary, but positively harmful that its existence results in delay unnecessary duplication of work, and unwarranted interference with the Government of India Others of us look upon it as affording both a protection to Indian revenues against raids by the Chancellor of the Exchequer and a guarantee to the Services, the removal of which will act as a deterrent to recruitment for All India Services On a full consideration of the arguments for and against however we recommend that the Council of the Secretary of State be abolished If however, it is to be retained we consider that it should be reconstituted in such a way that half the members are Indians selected from the members of the Central Legislature This will at any rate ensure that popular opinion will be adequately represented in the Council We further consider that so long as the Secretary of State is to discharge his functions of superintendence and control over any subject not transferred in the Government of India he should be assisted by the appointment of two Indian Under Secretaries of State of whom at least one should find a place in Parliament

Indian Under Secretaries of State

Representation of India in Parliament

136 We also consider that so long as India does not attain dominion status it is necessary that the Indian point of view [illegible] that provision should be [illegible] the British Parliament [illegible]uld be found and rules prescribed, if necessary, for the election of such members

CHAPTER VI

MISCELLANEOUS

The Army in India

137 Our discussion of the constitutional developments in India inevitably leads to the consideration of the future position of the Army It has been argued that a country which claims responsible government should be able to defend itself against foreign aggression and maintain internal order, and India's claim to self government has been challenged on the ground of her dependence on Britain for her defence in the last resort We would point out that this test has not been invariably applied in the case of other British Dominions to which responsible government has been conceded We are however, prepared to answer that test, but under conditions which must be fair and reasonable To make India's advancement to her political goal conditional on her ability to undertake her defence on the one hand and on the other hand, to deny her full opportunity to do so, or even question as has been done in some quarters the possibility of her ever being able to do so at any time we regard as inconsistent alike with reason and fair play If, therefore, the declared intention of Parliament to advance the progressive realisation of responsible government ' in India holds good, as it most unquestionably does further opportunities should be given to her to man the Indian portion of the Army by her own sons as a preliminary to taking the entire defence of the country into her own hands We, therefore, recommend that concurrently with the establishment om
mended by us, a tab
lished in India , a ions
of the Skeen Committee should be carried out in the manner referred to in that Committee s Report

Establishment of a Supreme Court

138 In the three great federations of British speaking peoples the United States of America, the Dominion of Canada and the Commonwealth of Australia a Supreme Court forms an integral part of the constitution and although the Indian Commonwealth which we hope to see established will be formed by a system of devolution of power from the Centre and not by the federation of independent states or provinces the arguments in favour of establishing a Supreme Court for India are in our opinion not less cogent than in the cases referred to A great deal of the appellate work of the Privy Council would devolve upon the Supreme Court in India, to the great advantage of litigants,

both in time and money The Supreme Court would decide disputes between one province and another, or between provinces and the Centre and might be entrusted with authority to give rulings on interpretation of the constitution It need not oust the jurisdiction of the Privy Council The Canadian or Australian model provides precedents for regulating the relationship of the Supreme Court and the Privy Council in London

We are convinced of the necessity for the establishment of a Supreme Court in India as an integral part of the constitution, and we recommend that a Supreme Court be so established

Fundamental Rights

139 We are of opinion that it is essential to embody in the Government of India Act a declaration of certain fundamental rights We propose, therefore that a section should be enacted to the following effect —

> No subject of the King Emperor shall by reason only of his religion place of birth descent, colour or caste, or any of them be disabled from or prejudiced for the purpose of holding or being recruited for any office or post paid out of public funds or of adopting freely any profession, trade or calling or engaging in any industry , or acquiring any right, title or interest in any property , or finding admission to any educational institution supported out of funds in the hands of the Central or Provincial Government or a local body , or entering or using public roads public wells and other places whatsoever so maintained , and all orders and enactments placing any such disability now in force are null and void

> " Provided that this provision shall not affect the Punjab Land Alienation Act or any similar Act for the protection of agriculturalists in India

CONCLUSION

India's demands

140 We have now set forth in detail some of the principal [illegible] of govern [illegible] In order [illegible] obscured [illegible] we desire [illegible]a's mini[illegible] the part [illegible] full dominion status for India is the goal at which it aims We demand further, that an immediate and substantial step should be taken towards the attainment of that goal by the conferring on the provinces of a liberal

measure of autonomy and by making the Government of India responsible to its legislature in accordance with our detailed recommendations Lastly we demand that provision should be made in the Government of India Act which will enable the above goal to be reached without the necessity for further inquiries by statutory commissions or other agency

We are convinced that there is no safe half way house between an immediate advance on the lines which we have indicated in our Report and an ultimate surrender by the British Government after India s insistent demand
We case in the plainest and
most at this may be the last opportunity that a British Government will ever have of rallying to its side all the saner and more responsible elements of Indian opinion and of strengthening their hand against the forces of disorder We cannot believe that the British Government will be so blind to the teaching of history that it will fail
and by an act of far seeing
the crown on the great

141 Before we conclude we desire to express our gratitude to all those who have come forward to help us in our task The provincial governments proffered their assistance freely and we are much indebted to the members of executive councils, ministers and secretaries in that behalf Our special acknowledgments are due to the committees appointed by the provincial legislatures for their co-operation in elucidating the local evidence and in furnishing us with their valuable advice on the form of the changes recommended To them and to all those who submitted memoranda and came forward to give evidence before us we tender our warmest thanks We shall be failing in our duty if we do not express our appreciation of the work done by Mr H H F M Tyler C I E I C S Secretary and Messrs S N Roy I C S and H K Kirpalani I C S Deputy Secretaries to our Committee Mr R M Palat Barrister at Law personal Secretary to our Chairman and the members of the staff They have worked under great pressure and without their willing co operation we should have found it difficult to complete our task Lastly we desire to express our keen appreciation of the hospitality shown to us in an unstinted measure throughout our tour in India and also of that extended to us by His Majesty s Government during our stay in London Acknowledgments

142 Some of us do not agree with all the conclusions reached by the Committee and in some cases even where we agreed we desire to put forward the arguments by which we support those Conclusion.

conclusions more fully than could be done in the main report We therefore sign the report subject to our minutes of dissent or explanation which are appended

We have the honour to be,

Your Excellency's most obedient servants,

SANKARAN NAIR, Chairman

A H FROOM,

NAWAB ALI KHAN,

SHIVDEV SINGH UBEROI,

ZULFIQAR ALI KHAN,

HARI SINGH GOUR

ABDULLAH AL-MAMUN SUHRAWARDY,

M C RAJAH,

Members

H H F M TYLER,

Secretary

London, the 18th October 1929

APPENDIX I

Summary of Recommendations

(*Note* —This Summary is intended only to be a concise indication of the proposals and it should be read with the paragraphs of the Report, which are noted in the margin)

Question of Sind and Burma

	Paras
1 Sind should be separated from the Bombay Presidency and made into a new province	39 (1)
2 Burma should not be separated from India	39 (2)

Provincial Executive

3 Excepting Law and Order in Bengal the distinction between reserved and transferred subjects should be abolished and all subjects save those specifically classified as central should be provincial	41
4 The Cabinet should consist of eight ministers in Madras six in the United Provinces five in Bombay Bengal Punjab and Burma four in Bihar and Orissa and Assam and three in the Central Provinces	42
5 There should be joint responsibility in the Cabinet	43
6 The Governor should select the Chief Minister and appoint the other ministers on his recommendation	43
7 The Chief Minister should preside at the meetings of Cabinet and save in respect of Law and Order in Bengal should distribute the portfolios amongst the members of the Cabinet	46
8 Rules for the transaction of business of the local government should be prepared by the Cabinet and submitted to the Governor for his approval	46
9 The Governor should not be a member of the Cabinet	47
10 The portfolio of Law and Order in Bengal should be placed in charge of a member not necessarily an official appointed by the Governor , such member will on appointment become an ex officio member of the Legislative Council	49
11 Adequate notice should be given before any motion of want of confidence is introduced in the Legislative Council No such motion should entail the resignation of a ministry unless two thirds of the members present vote in favour of it	50
12 The salaries of ministers and of the President of the Council should be fixed by an Act of the local legislature	51

Paras

13 The Governor should exercise only the ordinary constitutional power of dismissing the Cabinet 53

14 For the purpose of maintaining peace and tranquillity in a province the Governor should have extraordinary power to issue orders in the name of the government and if necessary, to overrule his Cabinet 53

15 It should be open to the Governor to direct or prohibit the transfer of any district magistrate or district superintendent of police to and from any district 53

16 If the Governor differs from the Cabinet on any question affecting (*a*) the religion or the religious rites of any class of British subjects in British India, (*b*) any central subject, or (*c*) the interests of another province he should have the power to refer the question to the Governor General whose decision shall be final 53

Provincial Legislature

17 The present electorates should be doubled immediately 59

18 The Legislative Councils should have the power to alter the franchise at the end of their second term provided that any change shall not be carried into effect unless it is passed at a special meeting of the Council and is supported by not less than two thirds of the members present 60

19 Unless a more rapid advance is made earlier in the direction of adult suffrage one third of the population should be compulsorily enfranchised in 1941 two thirds in 1951 and the whole in 1961 60

20 The question of further extension of the franchise in Burma should be left to the discretion of the local Legislative Council 60

21 The Provincial Legislative Councils should be enlarged c1

22 The officia

23 The Gover
to the
particu

24 The nomination of non officials should be entirely done away with 66

25 Except in the case of Europeans in all provinces, Anglo Indians and depressed classes in Madras Karens and Indians in Burma communal electorates should be abolished 82 83 78, 84 and 85

26 Seats should be reserved for other minorities in joint electorates The members of a community for whom seats are reserved should be free to contest other seats in general constituencies 69

Paras

27 In provinces in which they are in a minority Muslims should be given the privilege of having seats reserved for them in *joint electorates, either* on a population basis or on their voting strength whichever may be more favourable to them, and further they should be permitted to contest seats in general constituencies beyond the number actually reserved for them 72

28 Seats for Hindus and Sikhs in the Punjab and for Sikhs in other provinces where their numerical strength entitles them to representation should be reserved in joint electorates on a population basis or their voting strength whichever may be more favourable to them without prejudice to their right to contest other seats in general constituencies 73 and 74

29 In Bengal there should be no separate electorates for Hindus and Muslims and no reservation of seats but the two communities should vote in a joint electorate 73

30 Separate electorates should be formed for the depressed classes in Madras 78

31 In the Bombay Presidency seats should be reserved for the depressed classes in joint electorates on a population basis or their voting strength, whichever is more favourable to them without prejudice to their right to contest more seats in general constituencies 79

32 In Assam seats should be reserved in joint electorates for the backward and depressed classes in the Surma valley *and for the indigenous primitive* races and backward and depressed classes in the Assam valley 79

33 In the remaining provinces seats should be reserved for the depressed classes in joint electorates without prejudice to their right to contest more seats in general constituencies 79

34 In Madras and Assam seats should be allotted to the backward classes it being left to the local governments to form electorates if possible or otherwise to fill the seats by nomination 80

35 *In the United Provinces* five seats should be reserved for the backward classes in joint electorates 80

36 In Bihar and Orissa seats should be reserved for the aborigines and the backward and hill tribes in joint electorates 80

37 Indian Christians should have reserved seats in joint electorates 81

Paras

38 Europeans should continue to have separate electorates in all provinces, except in the Central Provinces where a mixed constituency of Europeans and Anglo-Indians should be formed 82

39 Except in Bombay, the Central Provinces and partially in Madras, seats for Anglo-Indians should be reserved in joint electorates 83

40 The representation of Indians in the Burma Legislative Council should be on the same basis as at present, but their number should be increased in proportion to the increase in the total membership of the Council 85

41 The reservation of seats for non-Brahmins in Madras and Mahrattas in Bombay should be abolished 86

42 Seats should be allotted to Commerce and Industry in all provinces by special constituencies 87

43 Seats should be given to the planters in Madras, Assam and Bihar and Orissa in special constituencies 88

44 Seats should be assigned to the mining industry in Bihar and Orissa and the Central Provinces in special constituencies 89

45 Seats should be allotted to labour by reservation in general constituencies in Bombay and by separate electorates in other provinces 90

46 Seats should be reserved for landholders in special constituencies 91

47 The representation of the Universities should be at the same strength as at present except that one more seat should be allotted to the three universities of Allahabad, Agra and Lucknow 92

48 The University franchise should be confined to members of the Senate or, in the case of the Dacca University, the Court of the University 92

49 In every province five per centum of the total seats in the Legislative Council should be reserved for women. Election should be by joint or separate electorates but if this be found impracticable representation may be given to women by nomination 93

50 The term of the provincial legislatures should be extended to four years 94

51 The legislative power in the provinces should be vested in the Governor and the Legislative Council, and in the case of the United Provinces also the Senate 95

52 The local legislature should have the power to make laws for the peace and good government of the province in respect of all provincial subjects, but

Paras

it should not be empowered without the previous sanction of the Governor General in Council to repeal or alter as to the province any law relating to a provincial subject enacted by the Indian Legislature before the commencement of the new constitution 95

53 No proposal for the appropriation of any provincial revenues or other moneys for any purpose should be made except on the recommendation of the Cabinet 97

54 Without the previous sanction of the Cabinet it should not be lawful for any member of the local legislature to introduce any measure affecting the public revenues of the province or imposing any charge on those revenues 97

55 The power to assent to or withhold assent from any bills passed by the local legislature should vest in the Governor 98

56 When the Central Government has been popularised in accordance with the recommendations of the Committee the Governor General in Council may be authorised to assent to bills reserved for his consideration and to disallow provincial legislation within twelve months from the date of its receipt by him 98

57 The Governor should have the power in cases of emergency to authorise such expenditure as may be necessary for the safety and tranquillity of the province 99

58 A second chamber in the provinces is unnecessary except in the United Provinces where a second chamber should be created tentatively for a period of ten years 104

59 The franchise for electors for the Senate in the United Provinces should be the same as the present franchise for the Council of State The representatives of the depressed classes in the Senate should be elected by members of the provincial legislative council belonging to the depressed and backward classes 105

60 Seats should be reserved for the Muslims in the Senate in a joint electorate on the basis of their population or voting strength whichever is found to be more favourable to them without prejudice to their right to contest other seats 105

61 In regard to legislation the Senate should have concurrent powers with the Legislative Council except that all money bills should be initiated in the Legislative Council only 105

Paras

62 Budget and supplies should be voted by, and the ministry should be responsible to the Legislative Council only 103

6 Differences of opinion between the two chambers should be settled at a joint sitting of both chambers to be summoned by the Governor at his own instance or at the instance of either chamber 105

Other Proposals

64 The existing classification of subjects into provincial and central should be re-examined by a special committee 106

65 Until the Government of India is constituted on a popular basis by the transfer of departments to ministers all the revenues of a province should be at the disposal of the local government The provincial government, however should be subject to the obligation of paying to the Government of India such contribution as may be fixed by an impartial tribunal 107

66 The powers now exercised by the provincial governments in respect of the High Courts should in future be exercised by the Government of India 108

67 The reservation under Section 101 of the Government of India Act of one third of the seats in the High Courts for members of the Indian Civil Service should be abolished 109

68 One third of the judges of the High Courts should be barristers of not less than ten years standing and one third should be advocates or vakils who are not barristers The Chief Justice of the High Court should in all cases be a barrister 109

69 Except in Madras and Bombay the new provincial governments should be free to decide whether the All India Services should be retained or provincialised Should the Governments decide to pro

70 In Bombay the remaining All India Services should be provincialised All the prospects that the present members of those Services now enjoy being reserved to them 114

71 In Madras the two Security Services should remain All India Services as at present the remaining All India Services being *provincialised* 114

Paras

72 No order affecting the emoluments or pensions no order of formal censure and no order on a memorial shall be passed to the disadvantage of any officer of an All India or provincial Service without the personal concurrence of the Governor Any officer belonging to an All India Service or appointed by the Secretary of State will be entitled to appeal to that authority against any such order 115

73 It should be open to the Governments of Madras and Bombay to equip and maintain a local military force and a local militia 116

74 The Viceroy and the Commander in Chief should be entitled to inspect the local army and pass orders for its efficiency and maintenance, but they should not be entitled to direct the reduction of the force or any other step which will render the force less efficient 116

75 Immediate steps should be taken by the provincial governments to effect the separation of executive from judicial functions 117

76 Reforms should be introduced into the North West Frontier Province on the lines of the Morley Minto Reforms 118

77 The powers of superintendence and control of the Governor General in Council over the provincial governments should be exercised only for such purposes as may be specified and differences of opinion between the Governor General in Council and a local government as to the right of the former to intervene in provincial affairs should be decided by a special tribunal 119

78 The Governor General may supersede a local government and carry on the administration in case of breakdown or inability to maintain law and order in the province but not in the case of financial insolvency But the Governor General may take any steps that he considers necessary to enforce the payment of any debt due by a local government 119

79 The Governor General should have the power to overrule a provincial government for the purpose of maintaining peace and tranquility 119

80 Subject to the approval of the Secretary of State the Governor General should have power to suspend a provincial legislative council 119

81 The Governor General in Council with the approval of the Secretary of State should have power to take any province under his immediate authority and management 119

Paras

The Central Government

82 All subjects except the defence of India and its relations with foreign and Indian States should be transferred to the control of ministers responsible to the Legislature 123

83 Wi ... Governor General ... islature to deal

(*a*) the public debt or public revenues of India or imposing any charge on the revenues of India or

(*b*) the religion or religious rites and usages of any class of British subjects in India or

(*c*) the discipline or maintenance of any part of His Majesty's military naval, or air forces, or

(*d*) the relations of the Government with foreign princes or states

or any measure

(i) regulating any provincial subject or any part of a provincial subject which has not been declared to be subject to legislation by the Indian Legislature or

(ii) repealing or amending any Act of a local legislature or

(iii) repealing or amending any Act or Ordinance made by the Governor General 123

84 The Cabinet of the Governor General should consist of not more than two executive councillors and not more than six ministers 125

85 The appointment both of executive councillors and ministers should be made by the Governor General at his own discretion 125

86 Half the members of the Cabinet of the Governor General should be Indians 125

87 One executive councillor or minister should be a member of the Council of State and the rest should sit in the Assembly and where they are not already members of the Legislature they should become such members *ex officio* 125

88 Both the members of the Executive Council and ministers should have the right to address either chamber of the Legislature but they should only have the right to vote in the chamber of which they are members 125

89 The Legislative Assembly should consist of 300 members 126 and 128

Paras

90 In addition to the normal strength of the Assembly the Governor General in Council shall have the power to nominate ten experts 127

91 Europeans should be returned by separate electorates 129

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96 The term of the Assembly should be extended to five years 130

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98 Seats in the Council of State should be distributed amongst the various communities and interests in the same proportion in which they are now held The present proportion between the elected and nominated seats should be maintained 131

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99 The power to raise loans should be vested in the Government of India and it should be left to that Government to employ such agency as may seem desirable for this purpose 133

100 The recruitment for the Services should be in the hands of the Government of India or of the provincial governments as the case may be 133

101 The appointment of representatives to international organisations such as the League of Nations should be made by the Government of India and not by the Secretary of State 133

102 With the transfer of all subjects to a responsible ministry in the provinces the rules under Section 19A of the Government of India Act restricting the Secretary of State's power of intervention should be extended to the whole provincial field 134

Paras.

103 In the case of subjects transferred to responsible ministers in the Central Government the above rule should apply 134

104 The Council of the Secretary of State should be abolished If however it is retained it should be reconstituted in such a way that half the members are Indian elected from the members of the Central Legislature 135

105 So long as the Secretary of State is to discharge his functions of superintendence and control over any subject not transferred to the Government of India he should be assisted by the appointment of two Indian Under Secretaries of State of whom at least one should find a place in Parliament 135

106 So long as India does not obtain dominion status the Indian point of view should be represented in Parliament Provision should accordingly be made for the representation of Indian in the British Parliament 136

Miscellaneous

107 A military college should immediately be established in India and in other respects the recommendations of the Skeen Committee should be carried out 137

108 A Supreme Court should be established in India 138

109 A declaration of certain fundamental rights should be embodied in the Government of India Act 139

110 Provision should be made in the Government of India Act which would enable full dominion status to be attained without the necessity for further inquiries by statutory commissions or other agency 140

APPENDIX II

The following is the text of a letter addressed by Sir John Simon, Chairman of the Indian Statutory Commission, to the Governor General, dated 6th February, 1928

"In your speech to the Central Legislature on Thursday you laid renewed emphasis on 'full discretion as to the methods' which has from the beginning been left in the hands of the Indian Statutory Commission, and I myself as Chairman on landing in India next day authorised the issue of a statement on behalf of the Commission that it hoped without delay to announce the line of procedure which it would propose to follow Evidence accumulates that throughout India there is much uncertainty as to the manner in which we may be expected to exercise our functions and even considerable misunderstanding as to what we conceive those functions to be while—amidst the many messages of welcome and encouragement—we note that speeches are being made and resolutions passed which are based on a complete though doubtless genuine misconception of our intentions It is my plain duty therefore as Chairman to set out forthwith the true position as we regard it and since on this preliminary visit there is not likely to be any formal sitting of the Commission when the statement could be made I venture to address this letter to Your Excellency

"We understand that the Government of India and the Local Governments have been engaged for some time past in preparing material which they might put before the Commission We have not seen these documents and do not know how far they may consist of matters of fact and how far of matters of opinion or whether they deal with past events or with suggestions for the future But whatever they are instead of dealing with them by ourselves we wish to propose that they and evidence given in explanation or amplification of them should come before a 'Joint Free Conference over which I should preside consisting of seven British Commissioners and a corresponding body of representatives chosen by the Indian Legislatures (just as we ourselves have been chosen by the British Parliament)

"We put forward the plan of a 'joint free conference' not only because we should welcome assistance of colleagues from the Indian Legislatures but because we think it is only right and fair and in the truest interests of India and Britain alike that opportunity should be provided for such memoranda and testimony to be scrutinised and if necessary elucidated from the Indian side on free and equal terms We suggest therefore that the two Houses of the Central Legislature should in due course be invited to choose from their non official members a Joint Committee which might conveniently be seven in number, and that each Local Legislative Council should be asked to constitute a similar body The Indian side of the Conference would

consist, when Central subjects were being dealt with, of those first named, in a province, the Indian wing would primarily consist of provincial members, but in order that the Central Joint Committee may not have a partial view of the material put before it, we should be glad if arrangements could be arrived at which would enable its members or some of them to be present as an additional element at provincial sittings

"We have no wish to dictate the composition of the Indian wing of the Conference in more detail and we should greatly prefer that the precise scheme should be reached by agreement between the different elements in India concerned Our main object will be met so long as the arrangement is one which secures that the Indian side of the Joint Conference include, on appropriate occasions, those who are able to speak for Provincial Councils just as the Joint Committee would speak for the Central Legislature, so long as the members representing India and sitting with us do not amount to an unwieldy number We assume of course that just as we ourselves are a body selected from all the British parties and both Houses of Parliament, so our Indian counterpart would be so far as may be, truly representative

"Two matters remain to be dealt with—the question of evidence other than that above referred to and the question of the Report I wish to deal candidly and clearly with both

"Some of us have had considerable experience of the method of joint conference as applied to industrial and political questions and it is quite clear to us that each side of the Conference will require from time to time to [illegible] by itself We see no reason however why evidence from public and representative bodies and from individuals should not normally be given to the [illegible] [illegible] behalf [illegible] be If [illegible] this [illegible] I should make no secret of it, [illegible] Joint Conference when as I hope, they learn to have faith in my sense of fairness to accept from me such account of the matter as I can give them on behalf of the Commission with due regard to the reason why testimony has been separately received I imagine that the Indian side may find occasions when they would think it well to act in the same way

"As regards the report it is, I feel necessary to restate the true function of the Commission and its place in the general scheme which you announced last November The Commission is in no sense an instrument either of the Government of India or of the British Government, but enters on the duty laid upon it by the King Emperor as a completely independent and unfettered body composed of Members of Parliament who approach Indian legislators as colleagues It is not an executive or legislating body authorised to pronounce decisions about the future of the government of India Before these decisions can be

reached the full process of which the present investigation is a first step must be completed including opportunity for the views of the Indian Legislature among other bodies being presented by the delegations in London to the Joint Parliamentary Committee The present Commission is only authorised to report and to make recommendations and in this report we desire to include a faithful account of the opinions and aspirations prevalent in India, and of concrete proposals for constitutional reform so far as these are put before us The British Commissioners therefore are bound to be solely responsible for the statement of the effect upon their own minds of the investigation We shall report to the authority by which we have been constituted just as (if the Conference is set up) the Joint Committee would, we presume be entitled to report its conclusions to the Central Legislature It is obvious that these documents should be prepared and presented simultaneously There are well known constitu

Indian Joint Committee would prefer it we would make its report an annexe to our own documents so that both might be presented to the King Emperor and made public at the same moment

Above all I would urge that one of the merits of the method of Joint Conference is that besides securing due recognition of equal status it provides the opportunity for that free exchange of views and mutual influence which are best calculated to promote the largest measure of agreement that is possible

"Our present visit is preliminary and sittings of the Joint Free Conference if it is set up would not begin till October But we make public our suggestions at once not only in order to clear the air but in order to show ourselves available for any conference about any matters of procedure which this statement does not adequately cover

"The Commission is of course bound to carry through its task in any event and discharge to the full the duty cast upon it but we are undertaking this duty only after having made it known that the method of collaboration on honourable and equal terms is open and that we put it forward in all sincerity and goodwill We will only add that in making these proposals we are confident *that we are correctly interpreting the intentions of the British* Parliament

"The carrying out of our proposals will require at a later date that the Council of State the Legislative Assembly and the local Legislative Councils should be moved to elect their representatives who would take part in the Joint Conference and the Commission will be glad if the Government of India will take such steps as seem appropriate for this purpose in due course"

APPENDIX III

Statement showing the Population of the Provinces by Religion

Provinces	Hindus, excluding Depressed Classes	Depressed Classes	Muslims	Europeans	Anglo Indians	Indian Christians	Sikhs	Buddhists	Tribal Religions	Others	Total
Madras	31 011,012	[illegible]	2 840 488	10 821	23 451	1,327 182		.	578,398	27,603	[illegible]
Bombay	[illegible]	[illegible]	[illegible]	[illegible]	10,401	220 920			122,937	325,492	19 348,219
Bengal	8 703 527	11 500,000	25 210 802	[illegible]	22 212	102,124		265 604	845,780	22,712	[illegible]
United Provinces	25,405 624	[illegible]	[illegible]	25 146	[illegible]	166 307	14 234			274,191	[illegible]
Punjab	[illegible]	[illegible]	11,444 321	21 549	4 177	313 324	2 294 207			237,558	[illegible]
Bihar and Orissa	23 161,118	[illegible]	[illegible]	6 261	4 164	246 764			1,891,009	12,751	34,002,189
Central Provinces	8,945 592	2 675 806	563 574	5 817	[illegible]	32 206		.	1,614 013	72,330	13,912,760
Assam	2 577,232	[illegible]	[illegible]	[illegible]	[illegible]	124 819			1,124,809	18 496	[illegible]
Burma	484,432	.	[illegible]	[illegible]	[illegible]	[illegible]		11 201,943	702,587	22,479	[illegible]
North West Frontier Province	149 881		[illegible]	[illegible]	200	[illegible]	28 040		..	23	2,251,340
Other minor Administrations (e.g., Ajmer Merwara, Andamans and Nicobars, Baluchistan, Coorg, Delhi)	*848,179*		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]		34,632	42,964	[illegible]
	118 202,812	[illegible]	[illegible]	[illegible]	[illegible]	2 775 323	2,317,499 (a)	11,167,547	8,904,165	1,036,587 (b)	240,900,200

(a) The total Sikh population of the remaining Provinces shown above is approximately 19,500 (included in the figure shown under "Others")
(b) This includes Jains, Parsis, Jews Aryas (a), and others.

MEMORANDUM

BY

The Honourable Sir SANKARAN NAIR, Kt C I E, Chairman

The Honourable RAJA NAWAB ALI KHAN

The Honourable SARDAR BAHADUR SHIVDEV SINGH UBEROI

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I

INTRODUCTION

Political evolution of India envisaged in the Montagu Chelmsford Report

1 The Montagu Chelmsford Report and the despatch of the Government of India No 1 dated the 5th March 1919 form the basis of the Reforms embodied in the Government of India Act of 1919 To understand the nature of the questions now in issue and the future political evolution therein foreshadowed, it is necessary to bear in mind the leading features of the Reform Scheme as described in those documents With regard to the future political evolution of India the Montagu Chelmsford Report states as follows —

> "Our conception of the eventual future of India is a sisterhood of States self governing in all matters of purely local or provincial interest in some cases corresponding to existing provinces in others perhaps modified in area according to the character and economic interests of their people Over this congeries of States would preside a central Government increasingly representative of and responsible to the people of all of them dealing with matters both internal and external of common interest to the whole of India acting as arbiter in inter State relations and representing the interests of all India on equal terms with the self governing units of the British Empire In this picture there is a place also for the Native States It is possible that they, too will wish to be associated for certain purposes with the organisation of British India in such a way as to dedicate their peculiar qualities to the common service without loss of individuality But it seems to us axiomatic that there cannot be a completely representative and responsible Government of India on an equal
> ... of the British Common
> ... people it represents and
> ... great majority of them,
> ... *ponsible government*
> The dominating factor in the intermediate process must be the rate at which the provinces can move towards responsible government

Provinces and responsible Government

2 After pointing out that the conditions requisite for responsible Government—administrative and electoral experience were lacking in their completeness the Joint Authors state their conclusion in the following words —

> "The provinces are the domain in which the earlier steps towards the progressive realisation of responsible Government should be taken Some measure of responsibility should be given at once, and *our aim is to give complete responsibility as soon as conditions permit* This involves at once giving the provinces the largest measure of independence legislative administrative and financial, of the Government of India which is compatible with the due discharge by the latter of its own responsibilities "

Their financial independence

3 Of financial independence they state —

> "The existing financial relations between the Central and Provincial Governments must be changed if the popular principle in government is to have fair play in the provinces The present settlements by which the Indian and Provincial Governments share the proceeds of certain heads of revenues are based primarily on the estimated needs of the provinces and the Government of India

disposes of the surplus This system necessarily involves control and interference by the Indian Government in provincial matters An arrangement, which on the whole worked successfully between two official Governments, would be quite impossible between a popular and an official Government Our first aim has therefore been *to find some means of entirely separating the resources of the Central Government and the Provincial Governments*

"Because provincial settlements have been based, not on provincial revenues, but on provincial needs, a central control over provincial expenditure is not merely justifiable but inevitable The Government of India could not allow a province to go bankrupt But if the Government of India were responsible for provincial solvency, they must be in a position to control provincial expenditure, indeed, in view of their own competing needs, they could hardly avoid feeling a direct interest in keeping down charges Again, as regards revenue, so long as the Government of India take a share in the proceeds, they have a strong motive for interfering in the details of administration Their interest in Land revenue, for example, inevitably leads them to a close supervision over revenue settlements, and the control tends to become tighter in cases where expansion and development, as in the case of irrigation, depend on capital outlay

"We start with a change of standpoint If provincial autonomy is to mean anything real clearly the provinces must not be dependent on the Indian Government for the means of provincial development Existing settlements do, indeed, provide for ordinary growth of expenditure but for any large and costly innovations provincial Governments depend on doles out of the Indian surplus Our idea is that an estimate should first be made of the scale of expenditure required for the upkeep and development of the services which clearly appertain to the Indian sphere that resources with which to meet this expenditure should be secured to the Indian Government, and that all other revenues should then be handed over to the provincial Governments, which will henceforth be held wholly responsible for the development of all provincial services Our whole scheme must be even and well balanced, and it would be ridiculous to introduce wide measures of administrative and legislative devolution and at the same time to retain a centralised system of finance"

4 As to legislative independence they proposed that there should be in each province "an enlarged legislative Council, differing in size and composition from province to province, with a substantial elected majority, elected by direct election on a broad franchise, with such communal and special representation as may be necessary They were also of opinion that the provinces must be "secured against any unnecessary interference by the Government of India in the spheres of legislative and administrative business After referring to certain reservations they say —"We intend that within the field which may be marked off for provincial legislative control the *sole legislative power shall rest with the provincial legislatures*" **Legislative independence**

5 As to the administrative devolution they say — **Administrative devolution.**

"The question of restraining the Central Government from administrative interference in the provinces is more difficult We recognise that, in so far as the provincial Governments of the future will still remain partly bureaucratic in character there can be no logical reason for relaxing the control of superior official authority

over them, nor, [illegible] would any general relaxation be approved by Indian opinion, and that in this respect the utmost that can be justified is such modification of present methods of control as aims at getting rid of interference in minor matters which might very well be left to the decision of the authority which is most closely acquainted with the facts. It is, however, in relation to Provincial Governments in their popular aspect, that serious difficulties present themselves. So long as the Government of India is predominantly official in character and therefore remains amenable to the Secretary [illegible] matters normally falling within [illegible] involves a clash of principle [illegible] and *the scope of which it is* [illegible] *very closely defined bounds*."

Scheme of government in the Provinces described

6. The scheme devised to carry out the above principles was to divide the Executive Government in the provinces into two halves, one consisting of what were called "transferred" subjects administered by the Governor with the advice of ministers who were elected members of the Legislative Council and were under its control, and the other consisting of "reserved" subjects administered by the Governor with the assistance of Executive Councillors who were not subject to that control. This was the system named dyarchy. The Legislative councils were expanded and at least 70 per cent of the seats made elective, the franchise was widened, and separate electorates returning Muhammadan and non-Muhammadan members respectively, were continued and enlarged.

Hostile reception of the scheme

7. The scheme in its essential features was a liberal one, but Indian hopes had been [illegible] to highest pitch, and the end of the war was heralded by [illegible] which dashed all those hopes. Turkey was treated in a manner which [illegible] Muhammadan opinion and aroused sympathy in both communities. The Rowlatt Act and the occurrences at the Jallianwala Bagh were regarded as an intimation to Indians that they should no longer count upon the promises held out to them during the war. The situation was seized upon by Mr Gandhi to start his campaign of non-co-operation with the united support of the Hindus and the Muslims. The new constitution was ushered in while this campaign was gathering strength. A triple boycott of the schools, of the law courts and of the legislative councils was proclaimed by Mr Gandhi who declared that it was only by these means that Home Rule could be achieved. The Liberal Party entered the councils and for the first three years co-operated with the Government in carrying out a number of beneficial measures, but before the end of the term of the first council they realised that they were not able to work the reforms satisfactorily without material modifications.

Reforms Enquiry Committee, 1924

8. A number of Mr Gandhi's followers entered the second Legislative Assembly at the end of 1923 and formed the Congress, or the Swaraj party in the Assembly. Both they and the Liberals agreed to carry through the Assembly a resolution recommending certain fundamental changes in the Constitution.

A Committee, known as the Reforms Enquiry Committee 1924 was thereupon appointed by the Government of India to inquire into the working of the Government of India Act and the rules thereunder, and to suggest remedies, consistent with the structure policy and purpose of the Act for such difficulties or defects as may be found to exist

Findings of the Committee

9 The Congress Party stood aloof from the inquiry But the four non official members of the Committee who differed from their five official colleagues belonged to the Liberal Party The result of the evidence taken by the Committee is stated in the following terms in the Majority Report of the Committee —

"Generally speaking most of the Indian witnesses before us have attacked the present constitution as having been found *after trial* to be unworkable and have advocated the immediate grant of provincial autonomy to the Provinces and the introduction of a measure of responsibility to the *Legislature in the Central Government* So far as the Central Government is concerned, a common form which the recommendations of witnesses took was for the transfer to the administration of Ministers responsible to the Legislature of all subjects except —

(i) Political and Foreign Relations, and
(ii) Defence"

The opinion of the minority was as under —

With the exception of Messrs Fazlul Huq and Ghuznavi ex Ministers of Bengal nearly every non official witness whom we have examined has pressed on us the need for provincial autonomy and of introduction of responsibility in the Central Government

Both sections of the Committee submitted various recommendations but no substantial action was taken on them by the Government

Attitude of the Legislative Assembly and the National Congress

10 The attitude of the Legislative Assembly has since been one of undisguised hostility to the Government As a protest against the attitude of the Labour Government in England the Finance Bill was rejected There was virtual unanimity of Indian political opinion of all shades regarding the necessity for an immediate constitutional advance A session of the National Congress was convened to make definite recommendations regarding the legislative provision necessary for such constitutional advance A deputation consisting of the Rt Hon Srinivasa Sastri and Mr Iswar Saran was sent to England to lay before the authorities the desire of India for a speedy appointment of a Commission of Enquiry The sentiments expressed in the Legislative Assembly repeated in the National Congress were re echoed and amplified in provincial conferences in various parts of India The demand for constitutional advance was a dominant feature from this date in the activities of all Indian political parti

The demand formulated by the Assembly

11 We might here state the demand as formulated by the Assembly On the 7th September, 1925, a resolution was moved by the Home Member of the Government of India in which he asked the Assembly to accept the principle underlying the Majority Report of the Reforms Inquiry Committee referred to above and to give effect to the "detailed recommendations" therein contained for improvements in the machinery of Government This was in fact giving the go by entirely to the Minority Report To that Resolution the Swaraj or Congress Party moved an amendment that immediate steps should be taken to move His Majesty's Government to make a declaration in Parliament embodying such fundamental changes in the constitutional machinery and administration of India as would make the Government of the country fully responsible The amendment further recommended the holding of a Round Table Conference or other suitable agency adequately representative of all Indian European and Anglo Indian interests to frame, with due regard to the interests of minorities a detailed scheme based on the above principles The leader of the Swaraj Party speaking on the amendment explained that what the Assembly wanted was that dyarchy in the provinces should be replaced by unitary responsible Government and that the Central Government must be made responsible to the Legislature except in regard to military expenditure and the Foreign and Political Relations This has since continued to be the demand of all the parties Swarajist Independent and Nationalist

Appointment of the Statutory Commission.

12 The
tory Comm
of India A
but in 1927 they announced their intention to appoint a Commission under the Chairmanship of Sir John Simon "to inquire into the system of Government the growth of education the development of representative institutions in British India and matters connected therewith and *to report as to whether* and to what extent *it is desirable to establish the principle of responsible Government* or to extend *modify or restrict* the degree of responsible Government existing therein including the question whether the establishment of second chambers of the Local Legislatures is or is not desirable" In India this was regarded as inconsistent at least in spirit with the declaration of 1917 This view received support from the fact that there was no Indian on the Commission and that as originally intended no report was to be submitted embodying the Indian point of view The Indian political leaders resolved accordingly to boycott the Commission and with exceptions the boycott was effective

The All Parties' Conference Report.

13 The Indian leaders lost no time in putting forward their own scheme A conference of political leaders of all parties was summoned and a Committee appointed by them issued a report which was ratified by the Conference They claimed full

responsible Government like that of the Dominions in the provinces and in the Central Government For the solution of the Hindu Muslim question, they recommended adult suffrage and in place of separate electorates for Muhammedans they proposed that there should be in future only joint electorates with reservation of seats on the population basis for Muhammedans where they were in a minority. They recommended full responsible Government as in the other provinces for the North-West Frontier Province, and in any new provinces that may be created They recommended the constitution of Sind into a separate province No reservation of seats for any community was allowed in the Punjab and in Bengal, where the Muslims were in a majority

14 The acceptance of the Dominion status was declared by certain persons to be inconsistent with the resolution of the Madras Congress for independence passed in the previous year The leaders of both the parties therefore came to a compromise and in December 1928 the following resolution was moved by Mr Gandhi at the session of the Congress — **Endorsed by the Congress**

"This Congress having considered the constitution recommended by the All Parties Committee Report welcomes it as a great contribution towards the solution of India's political and communal problems and congratulates the Committee on the virtual unanimity of its recommendations, and whilst adhering to the resolution relating to complete independence passed at the Madras Congress, approves of the *constitution drawn up by the Committee as a great step in* political advance, specially as it represents the largest measure of agreement attained among the important parties in the country

"Subject to the exigencies of political situation this Congress will adopt the constitution if it is accepted in its entirety by the British Parliament on or before December 31st, 1929, but in the event of its non acceptance by that date or its earlier rejection, the Congress will organise a campaign of non violent non co operation by advising the country to refuse taxation and in such other manner as may be decided upon

"Consistently with the above nothing in this resolution shall interefere with the carrying on in the name of the Congress of the propaganda for complete independence"

An amendment moved by the Independence Party for severance from the British Empire was negatived largely owing to Mr Gandhi's influence and the resolution moved by him was passed

15 The scheme put forward by the All Parties Conference satisfied only a section of the Muhammadans Another and a much larger section wished to modify the scheme in certain respects mainly by the reservation of seats according to the population basis in Bengal and in the Punjab though the Muhammadans in these provinces are in a majority and by the reservation **Muslim All Parties Conference**

for them of one third of the seats in the Central Legislative Assembly. A Muslim All Parties Conference convened at Delhi and presided over by His Highness the Aga Khan declared its disagreement with the All Parties Conference, but at the same time demanded complete provincial autonomy, a federal constitution for India the Central Government having only such powers as may be reserved to it, separate electorates for Muslims and representation for the communities on the population basis where the Muslims were in a majority and representation of not less than what they now enjoy where they were in a minority. They also wanted one third representation in the Central Legislature. They of course supported the scheme for the separation of Sind and the introduction of constitutional reforms in the North West Frontier Province.

II

Provincial Autonomy

Item 41 of the Report of the Committee

Transfer of departments now reserved

16 We have quoted above passages showing the intention of the authors of the Joint Report to confer immediately some measure of responsibility in the provinces and to grant complete responsibility as soon as conditions permitted. We have also described the scheme of Provincial Government based on partial responsibility. If as we propose to show the conditions requisite for complete responsibility are fulfilled it naturally follows that the departments now reserved should be transferred to Ministers under the control of elected Councils.

Factors governing the transfer

17 Indian opinion is decisive on the point that there should no longer be any reserved departments that the administration in its entirety should be under the elected chamber and that the Local Governments should have full independence of a Government of India which is not itself under the control of an elected chamber. In determining whether effect should be given to the popular demand we propose to consider the record of the administration of the transferred departments by the Ministers and the reasons for the transfer of the departments now reserved. Of the transferred departments the more important are those dealing with Local Self Government Education and Public Health.

Record of the administration of transferred departments

18 The Statutory Commission have been directed to report on the progress of education and the development of local self government. The growth of education since 1919 has been exhaustively dealt with by the Auxiliary Committee appointed by the Royal Commission by all the Local Governments and by the Indian Central Committee. We therefore think it unnecessary to go into the question at any length but shall only refer to a few facts to illustrate the difference in the handling of the education as well as the medical and health departments before and after the Reforms and to show that the activities of these de

partments since the Reforms were very different in kind and of a more progressive, varied and beneficent character than before

19 Since the passing of the Government of India Act local self government has been extended to villages by the Panchayats Acts In Municipalities and Taluq Boards the franchise has been lowered and the electorates have largely increased Presidents and Vice Presidents of Local Boards and Municipalities have been made elective The elective element in the Local Boards has been increased everywhere Municipalities have been given full powers in the selection of their chief executive officers Women have been made eligible for election both as municipal councillors and as members of District Local Boards The control of primary education has been transferred almost entirely to Municipalities and Local Boards There has been a growth of civic consciousness Interest in elections has increased attendance of members at meetings has been satisfactory Men whose one object is promotion of the public weal men of experience and standing are coming forward to play their part in civic affairs and generally exercise a moderating influence Expenditure on public health and conveniences such as drainage water works etc has enormously increased Even smaller municipalities have shown a tendency to push on scheme of drainage and water supply The larger municipalities have financed big projects of this nature by means of loans raised in the open market They have not hesitated to resort to additional taxation for the service of these loans — Progress in local self government

20 Education has evoked both interest and endeavour All parties are willing to meet the demand for it Expenditure on education has increased enormously A large number of questions at every session of the Council have related to education and particularly primary education Some of the resolutions have recommended free and compulsory education basing the demand on the need for educating the backward and depressed classes Some resolutions contained demands for special concessions to these classes in the matter of admission to colleges and training institutions special schools and appointments These efforts to improve the depressed and similar classes have been successful in rousing them from their apathy and they are now vigorously putting forward their [illegible] rkable progress has been mac[illegible] The most incessant demai[illegible] as for the introduction of a measure of compulsion and this has been met by the Primary Education Acts The increase in the number of primary schools and pupils has been phenomenal Female education has made great strides A good deal of interest has been taken in the suggestion that a more practical turn should be given to the teaching in village schools particularly by the introduction of lessons in agriculture During general discussions of the budgets there is generally a complaint that sufficient — in education

c

funds are not allotted to education Finance Bills have been passed on an assurance that monies were needed *inter alia* for education No demand for funds for the spread of education has ever been refused In the pre Reform days the Government at Delhi or Simla not in touch with local opinion, issued circulars full of wise maxims, but the results achieved during the last ten years show that local efforts and enthusiasm have succeeded better than the well meant but futile efforts of a distant and foreign bureaucracy On every side there is life and energy instead of apathy and listlessness

The Councils and social progress

21 As to the administration of the transferred departments other than those dealing with education and local self government the Governments state that a liberal and progressive policy has characterised the administration The Councils are ever ready to sanction grants for medical administration and sanitation Their record in matters of general social progress is equally praiseworthy The amelioration of the depressed classes has in particular received much attention from the Legislative Councils Political rights of women and the rights of women and children generally, marriage freedom of religion and conscience are some of the subjects dealt with by the Council in a liberal and progressive spirit The grant to the depressed classes of the franchise for local self government and their admission into the public services have been liberally dealt with Resolutions have been passed recommending the provision of grants in aid for infant and maternity welfare and for adequate maternity benefits to women workers in organised industries and prohibiting the employment of women during the period of such benefit. Bills have been introduced for the removal of Brahmin *control over* non Brahmins

The results summarised

22 Thus on every side progress has been remarkable Steps taken to spread education have been more far reaching than ever contemplated by the Government before the Reforms in fact those steps were then opposed by Government as being impracticable I

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not unde

settled by officials elected members not forming a majority, All this is now changed everywhere we find life, energy and enthusiasm In social legislation the Councils have taken steps which the British Government consistently and perhaps rightly, from their point of view, refused to take but which were indispensable to the progress of the country The expectations of those responsible for the Reforms of 1919 have been amply fulfilled

Reasons for transfer dependence of Ministers

23 We now turn to the reasons for transferring the Reserved Departments to popular control Under Dyarchy as it was worked the Ministers were dependent upon the official vote On this account they became indistinguishable from the

members of the Executive Council This tended to weaken their followers sense of allegiance, to lessen their sense of responsibility and to throw them back on the simpler and more popular policy of opposition to official measures The Ministers thus remained in office without the support of the majority of the elected members since the official bloc and the nominated members with a small minority of elected members sufficed to keep them in office The Government of the Transferred Departments was thus not always carried on according to the wishes of the elected members of the Legislative Council but in unison with the official Executive on which the Ministers were dependent So far as the latter are concerned it cannot therefore be said that they were really in power as was intended by the Reform scheme but only to have exercised their influence Agreeing with the Local Governments we are therefore of opinion that under the present system sufficient responsibility is not given to the Ministers in relation to transferred subjects In a purely elected Council this responsibility is bound to be real as the Council will effectively control the Ministers

24 It is now also recognised that it is extremely difficult if not impossible to divide off absolutely the "reserved" sphere from the "transferred" It is practically impossible to administer certain departments satisfactorily by treating them as either wholly transferred or wholly reserved In these circumstances it is hopeless to retain the distinction between the reserved and the transferred departments **Inter relation of departments**

25 The absence of joint responsibility amongst the Ministers is one of the causes of their weakness But it has been found impossible in practice to insist on joint responsibility under the present circumstances The Governments point out that the absence of well organised parties divided on broad questions of policy is inevitable under the present system Dyarchy with the dual control over Ministers of the Legislative Council and of the Governor which it necessarily involves hinders the growth of such parties There were therefore various groups in the Councils out of which the Ministers were appointed There could be no joint responsibility in a Ministry composed of members of different groups following different principles **Absence of joint responsibility**

26 The groups on which the Government had to rely were generally communal in character The result was that the Government often if not invariably became a communal machine The police for instance came to be regarded in some cases as instruments of a communal Government for carrying out a communal policy This intensified the feeling between the communities In fact to this cause is generally to be attributed the increasing bitterness between the various communities If the system is allowed to continue we apprehend a widening of the gulf between the communities and consequent danger to the Government **Dependence on communal group**

Complications of a joint purse

27 Under the Reform scheme there was a joint purse for the transferred and reserved departments with the result that the two halves of the government had to distribute the funds amongst them The Reforms resulted in a tightening up of financial control Such a tightening up was not indeed necessarily connected with the Reforms It might equally well have been insisted on under a purely bureaucratic form of Government but as a matter of fact in the pre Reform Government neither was the Provincial Budget taken with equal seriousness nor was there the same financial watch over expenditure as there has been under the Reforms This was partly due to a division of responsibility with the Government of India but mainly to the fact that neither the budget as a whole nor the detailed items of expenditure came under the same public scrutiny or criticism That this tightening up of control has proved irksome cannot be denied The old departments especially those dealing with Public Works which had been accustomed to budget in a manner indicative of little more than of the money they hoped to spend under favourable conditions found it difficult to accommodate themselves to a condition of affairs in which it was of serious importance that there should be an accurate forecast of the money spent in a particular year nor were they inclined to regard favourably the introduction of an approximation to the English system of treasury control over expenditure On the other hand the new transferred departments, full of zeal for the development of their own schemes had a tendency to regard as unduly orthodox the protests of the Finance Department against the introduction of new expenditure at any period of the budget year and as obstructive the criticism made upon the schemes from the financial point of view "

Effect of financial stringency on transferred departments

[illegible] ig been clamouring [illegible] what are called the [illegible] lget discussion the [illegible] the nation building departments are being starved The Government have not been able to meet the expenditure required for Primary Education Many items for improved medical facilities considered urgent by the Medical and Health Departments have been refused year after year The Governments share of the contribution to municipalities for undertaking schemes of water supply and drainage has not been paid The roads and buildings branch of the Public Works Department has been starved

Its repercussions on reserved departments

29 The inability of the Government to allot the necessary [illegible] s produced a con[illegible] e advantage of the [illegible] The result is the refusal of the Legislative Council to sanction even the necessary items of expenditure for the reserved departments The debates in Councils show that this attitude is partly due to the feeling

that one half of the Government is not responsible to the Council and may be guilty of extravagant or arbitrary action

The reserved departments are more or less controlled by the Legislative Councils so far as legislation and the provision of funds are concerned For the reason given above they have been subjected according to the Local Government to intolerable criticism in the Council and it is scarcely possible to allow the process to be continued further The Legislative Councils having no responsibility as regards reserved subjects give unrestrained vent to their criticism without fear of consequences As the nation building departments do not get sufficient funds the popular party are unwilling to grant the funds which are necessary to carry on the administration of the reserved subjects It is necessary therefore that the financial control so far as all the departments are concerned must be under the Legislative Council who alone faced with the responsibility for the administration of both would deal equitably with the claims of all the departments with the money at their disposal

30 The Local Governments with the exception of that of the United Provinces are of opinion that *dyarchy must be abolished and real responsibility introduced* It is necessary for this purpose that there should be no nominated members official or non official and that the entire administration should be under the control of the Councils We agree with them

Our conclusion

III

Financial Autonomy of the Provinces

Para 107 of the Report of the Committee

31 If all subjects are transferred to Ministers under the control of Legislative Councils it follows that the provinces must not be dependent on the Central Government for the means of provincial development Hitherto where the funds available for distribution among the transferred and reserved departments were not sufficient the two had to accommodate themselves to the situation but if after the transfer the Legislative Councils find that they have not funds to carry on the government according
ing n would arise If
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we may expect that they will make a strong protest as they have already done against the appropriation by the Central Government of their funds and will seek a fresh and reasonable settlement with the Central Government They will not allow the Central Government as hitherto to determine the amount which alone should be left to them

The problem stated

Complications of a joint purse

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Its repercussions on reserved departments

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The solution in the Montagu Chelmsford Report

32 The authors of the Montagu Chelmsford Report anticipated this They said that contributions by the Central Government to the Provinces will give the former a direct interest in keeping down charges, while sharing the proceeds of taxation with the Local Government will give them a strong motive for interfering with the details of administration So they came to the conclusion that the resources of the Provincial Government must be entirely separated from those of the Central Government The next step was to *estimate first* the expenditure of the Indian Government secure to them resources for meeting this expenditure and hand over all the rest to the Provincial Governments for the development of the Province * This accordingly made customs income tax salt opium posts telegraphs and railways central subject Land revenue was made a provincial subject

Working of the solution examined

33 In order to determine whether this arrangement has succeeded it is necessary to find out how far the Provincial Governments have been able to carry on with the revenues at their disposal, and whether they require all the revenues now allotted to the Central Government subject of course to the obligation to pay to that Government the amount required to satisfy their *estimated* needs

in Bengal,

34 For a population of 46 millions three millions more than that of Great Britain the Government of Bengal has only left to it a revenue of Rs 1070 lakhs (£8 000 000) out of a total of Rs 3575 lakhs raised in the Province From this revenue it has to provide for the following heads of expenditure arranged in the order of their cost in 1925 26 —Police Education General Administration Civil Works Justice Pension Medical Land Revenue Jails Excise Public Health Agriculture Registration Stationery and Printing Forests Industries The spokesman of the Government of India stated in the Legislative Assembly as follows —

> "We (the Government of India) have examined the case both thoroughly and critically and it appears certain that with every economy Bengal must have a deficit of not less than Rs 1 90 lakhs Even if we made no allowance for any extra expenditure for improvements in transferred subjects such as are desired by Ministers, improvements which we are told are necessary if the reforms are to be a success Bengal would have *that deficit* even if it provided only the bare minimum expenditure required to carry on the ordinary administration of the Province "

This is due to the fact that income tax and customs were assigned by the *Reform Scheme* to the Government of India and in these sources is largely concentrated the taxable capacity of the Province An analysis of the income tax assessments made in 1920 showed that *over* 90 per cent of the income tax collected in Calcutta came solely *from* Bengal Almost the

* *Vide* para 3 above

whole of the jute crop is grown in Bengal but its revenue producing value is taken by the Government of India in the form of export duty, income tax and railway receipts and the Province gets nothing The result is that one million pounds can hardly be found to spend on the education of 46 millions, the Universities are barely able to exist, the Police Department is starved inspectors and constables of the right stamp cannot be obtained for the pay available No wonder that we have a series of riots Bengal found itself in a condition of continuous poverty, which prevented an expansion of expenditure on beneficial measures which might have made a complete change in the attitude of the electorate, the Press and the Legislature towards the reformed Government Not only were the Ministers unable to develop a policy of social amelioration but it was even found necesary to increase taxation and curtail expenditure severely to maintain solvency and carry on the bare essentials of the administration In these circumstances it would not be [illegible] that no progress has [illegible]ern ing institutions [illegible]itage has been taken of increased opportunities of service The Ministers themselves and their supporters who laboured strenuously to keep the constitution going as a working concern might well ask what real opportunities they have had In the circumstances therefore the Government of Bengal must give first place in its proposals to a complete revision of the financial settlement Unless this be conceded the successful working of the new constitution will be impossible however good it may be in other ways

35 The income tax in Bengal in 1925 26 was Rs 5 93 59 000 in 1926 27 it was 5 69 89 000 and the export duty on jute for 1926 27 was 3 89 13 000 These two important items all go to the Government of India Bengal does not get anything while she has important projects pending for which the money required—Rs 13 27 33 000—cannot be found There are other lines of development the more important of which are the development of agriculture in accordance with the recommendations of the Royal Commission and the development of industries both of which involve large expenditure If Bengal s needs are to be satisfied fiscal autonomy is indispensable and the spokesman of the Government of Bengal has told us that they are unwilling to give anything to the Government of India until their own needs have been satisfied The Provincial Committee also support the claim put forward by the Government and they in our opinion are justified in doing so

36 The Government of Bombay point out that in India in Bombay,
according to the ideal stated in the Montagu Chelmsford Report the tendency is towards the model of the Australian or the American Federation that is to say the Local Government

being the more important unit, the Central Government is to carry out only those functions which the Local Governments cannot carry out singly The services which are at present allotted to the Central Government are Defence, Foreign Relations and Loans Subjects like General Administration Education Police, Law and Order are all provincial subjects Their claims to expansion must prevail over those of the Central subjects but from the point of view of Bombay—and Bengal—the settlement i e the distribution of the provincial income between the Central and Local Governments has not given adequate resources for the functions assigned to the Provincial Government Judged by this test the settlement has been a failure The income tax has been allotted to the Central Government The taking away of such an important head of revenue from the scope of provincial taxation is contrary to the idea of federalism as understood in countries like Australia and America The type of federalism to which India is being led requires that the provinces should have access to all the resources of the taxpayers within their boundaries The centralisation of the income tax denies to the provinces the power to tax the industrial and commercial wealth within their borders Without that tax industrial provinces can never get adequate resources to meet the growing needs of progressive administration Again the centralisation of income tax makes the division of resources between the industrial and agricultural provinces most inequitable Customs also is allotted to the Central Government It has increased from 31 crores in 1921 to about 50 crores in 1927 28 What has been the condition of Bombay deprived of the revenues collected within the presidency ?

37 The period since the Reforms has been one of great financial stringency in this province and the Government of Bombay have been seriously handicapped in their administration Except for a few departments they have been only marking time Under the present Financial settlement they have before them nothing but a period of stagnation The Legislative Council has all along been clamouring for a progressive policy in the nation building departments and if even a modicum of success was to attend the Reforms it was most desirable that some expansion should be allowed in the nation building departments especially in Education and Public Health Such expansion was not possible on account of the financial stringency which might have been relieved to a great extent if customs and income tax were not taken away by the Central Government Whenever any new taxation measures were introduced in the Council Government was compelled to win support for the measures by agreeing to use as far as possible the proceeds of such taxation for the nation building departments Bombay had thus to tax itself to attain any expansion that it desired in the nation building departments The figures of the growth of expenditure since 1910 11 are

discussed in Appendix A to the Government Memorandum, Vol 1 The detailed review there given shows very clearly how Bombay s administration has been in most cases not only not progressing but either remaining stagnant or actually retrogressing The same conclusion the Bombay Government say may be arrived at by a different line of approach They point out that they have incurred commitments under the Primary Education Act as regards building grants to schools and colleges as regards medical facilities considered very urgent by the Surgeon General as regards grants in aid to municipalities for undertaking schemes of water supply and drainage and buildings of all departments administratively approved All these are old commitments for which the Government have incurred a moral responsibility For want of funds they have not been carried out The appropriation by the Government of India of the customs and income tax has been responsible to a great extent for this situation

38 The Financial situation in Assam may be gauged from the following On account of want of funds the province has not got a single college for the training of teachers or for higher education in agriculture engineering veterinary science or medicine There is not a single hospital for women in the Province Kala Azar has depopulated whole tracts and greatly reduced the population in other parts Assam has the largest incidence of leprosy and the fewest facilities for its treatment malaria is deadly Communications within the Province are the poorest in India The Province has arrears of expenditure in all Departments Many pressing schemes of expenditure remain unattended to for want of funds The Government say that new police stations new schools and water supply in urban and rural areas are required Funds are required for various industrial and agricultural schemes and for expansion of primary education In fact the requirements of the future are infinite n Assam

Such is the condition of Assam due to her poverty Her sufferings would not have been so acute but for the financial scheme which transfers customs and income tax substantially to the Central Government

39 The Central Government s appropriations of revenue earned in the Province are as follows —

	Rs	
1921 22	814 000	Income Tax
1926 27	3 038 000	
1926 27	1 400 097	Petrol and Oil
1921 22	198 000	
	5 000 000	Export duty on tea

The increases under the first two items and the whole of the last item should have go to the Local Government The Central Government remitted the tea duty If they did not

want it they should have made it a Local Government tax and left it to the latter to remit it if necessary.

in Bihar and Orissa

40 The financial situation in Bihar and Orissa is thus described by the local government —

> "The Province is at present faced with stagnation, if not with bankruptcy If the state of bankruptcy is reached, an autocratic Government charged with the duty of maintaining the essential services to the neglect of popular demands will be essential Even if bankruptcy is not reached stagnation at the present stage will not only result in the policy that brought into existence a province condemned to remain in a permanent state of inferiority, but must also prove fruitful cause of local disaffection towards the established Government of which full advantage will undoubtedly be taken by its opponents In any case, India must be regarded as a single country, and one limb of the body politic cannot be allowed to deteriorate or it will affect the health of the whole" The position of Ministers in this Province is rapidly becoming an impossible one, and will continue to be so until they are provided with the means to keep pace with, if not to overtake, the rate of development in other provinces The whole fate of the Reforms in Bihar and Orissa therefore depends in a very special degree on the conclusion of an adequate financial settlement"

What has mainly contributed to this is the fact that in their own words the Imperial Government have appropriated every source of expanding revenue as their own while throwing so many expanded heads of expenditure on the Province Immence mineral resources are the peculiar endowment of this Province, but the taxation paid by the exploiters of the minerals is taken by the Central Government in the form of income tax They would not allow the Local Government to impose a tax on the coal exported On the other hand though the Local Government derive no benefit from the exploitation of their mineral resources the burden of the expenditure in these areas falls on the Local Government

Provincialization of customs, income tax and salt revenue recommended

41 We have taken two maritime provinces Bengal and Bombay and two inland provinces Assam and Bihar and Orissa for illustration It is not necessary to go into details so far as the remaining four provinces are concerned as they lead to the same conclusion The demands of the Provinces are enormous for education, health industrial development and other services. There is no limit to the expansion of those services or to the funds which may be legitimately used for them In future when law and order and general administration, including the police and judicial departments, irrigation, etc, are transferred the demands will rise to an enormous extent and they should have the first claim in preference to the services ministered to by the Government of India The only possible way to get out of the difficulty is to allow the provinces to retain customs income tax and salt revenue collected within their limits and allow them to impose further taxation on industrial wealth

Objections to the proposal examined

42 It has been objected to this that customs and income tax must be Central subjects on account of the necessity of maintaining a uniform rate throughout the country That the

taxation in these respects should be uniform may be at once admitted, but this can be done easily by a provision in the Statute empowering the Government of India to interfere with provincial taxation to secure such uniformity Another objection is that the province in which the taxes are collected may not be the province justly entitled to them Here again the difficulty can be got over easily If there is any dispute between two provinces as to which should get the proceeds of customs duty or income tax, an impartial tribunal appointed by them may decide the question If they cannot agree upon an impartial tribunal the Government of India may settle the question This is no reason for the Government of India appropriating the amount to the exclusion of the two provinces A third objection taken is that the Central Government requires the proceeds of this taxation and if deprived of them, it would have to make good the loss either by direct contribution from the other provinces, or by transferring to the Centre some of the revenues now raised in the provinces by purely provincial taxation But the funds required by the Central Government have to be met by all the provinces equitably and this can be done only by an impartial tribunal appointed by the province and the Government of India to decide what amount each province should pay In deciding this question all the expenditure which the Government have to incur legitimately will be taken into consideration

Counter suggestions

43 But it is said that any disturbance of the existing arrangements is unnecessary on account (1) of the probable expansion of the revenues now collected by the Provinces, (2) the possibility of their imposing further taxation and (3) the likelihood of the Central Government itself distributing any surplus out of the revenues already accruing to it or arising from fresh taxation It is also said (4) that instead of the provinces taking the customs income tax and salt revenue the taxes in question may be divided between the Central and the Local Governments A brief reference to these suggestions may now be made

The suggestions examined Expansion of provincial revenues

44 As to (1) it has been already ascertained by careful enquiry that the revenues now available to the Local Governments are inelastic while all increasing heads of revenue are assigned to the Central Government Not only are the existing sources of provincial revenue not likely to expand in the future the very reverse may be the case It is possible that some sources of revenue like excise allotted to the provincial Government might disappear altogether while the necessary provincial demands are growing almost to an unlimited extent

Imposition of fresh taxation by provinces

45 As to (2) no Legislative Council is likely to impose fresh taxation if the Central Government is allowed to appropriate the whole or part of the proceeds of such taxation If there is any attempt in the latter direction just as there is friction now between the transferred and reserved halves there will be friction between the Central and Provincial Governments, and the Central subjects will follow the fate of the subjects now reserved

Again, even if the councils are inclined to tax themselves they will find it inequitable to do so since if customs and income tax continue as Central they cannot take steps to distribute taxation over the urban and rural population with the result that even if they are inclined to impose any taxation they will not do it. Another reason against fresh taxation is that increased expenditure from provincial revenues over the nation building departments and the consequent moral and material development of the provinces would result in an increase in receipts from income tax, customs and railways. So long as the whole of these increased receipts go to the Central Government the Provinces would be disinclined to raise the wherewithal to pay for increased expenditure.

Distribution by the Central Government

46 As to (3), it has been suggested that provincial resources may be increased by the distribution by the Central Government among the provinces (a) of any Central surplus that may accrue with Central taxation at its present level, such surplus being the result either of a growth of revenue or a reduction of expenditure or a combination of both and (b) of the proceeds of new or additional Central taxation imposed for the purpose of supplementing provincial revenues.

(a) Of its existing surplus system of

47 As to (a) that is to say giving doles to the various provinces, this was rejected in the Montagu Chelmsford Report. Those who make this proposal are evidently unaware that the arrangement proposed is the same as or similar to that which existed before Lord Mayo's system and which was dispensed with by him for various reasons. The objections which applied then would apply to the proposals now put forward and we shall briefly state them. The demands of the Local Governments will be practically unlimited as there is no limit to their legitimate wants. Their constant effort will be to persuade the Government of India to give them as large a share as possible. The most importunate will get the largest share. The Government of India will be helpless to check the increasing demands as they have not the local knowledge needed for the same. Local economy will lead to no local advantage. There will thus be no stimulus to economy and avoidance of waste. The Local Governments will not adjust their expenditure to any fixed income and their demands will depend upon not what was absolutely required but what they hoped to get. The more they ask the more they will possibly get. The Government of India will never be able to form an impartial or comparative estimate of the imperative needs of a province which have to be satisfied immediately. The result would be conflict of opinion between the Government of India and the Local Governments. It was recognised as long ago as 1860 that "in order to avoid these conflicts it is expedient as far as possible that the obligation to find the funds necessary for administrative improvements should rest upon the authority whose immediate duty it is to devise such measures"

(b) Of the proceeds of fresh taxation

48 As to (*b*) that is distribution by the Central Government of the proceeds of new and central taxation imposed for the purpose of supplementing provincial revenues, the suggestion is impossible No Central Legislature will in future impose any taxation the proceeds of which will be distributed by an authority beyond its control They will not impose a tax, the proceeds of which are to be distributed by the Executive Government without any regard to their wishes They would be still less willing to impose any taxation in a province when it is open to the Legislative Council of that Province itself to impose such taxation and when they feel that the imposition of such taxation by them will be resented by that province or at least would not be liked by it

Divided heads

49 As to dividing the proceeds of taxation or the scheme called the Divided Heads we have already referred to the opinion expressed in the Montagu Chelmsford Report that this will tighten the grip of the Central over the local administration It was therefore the first aim of the authors of that Report to find some means of entirely separating the resources of the Central and Provincial Governments Before the Reforms of 1919 the following were divided equally between the Central Government and the Province where the income was collected Land Revenue Excise Stamps Income Tax, Forests Major Irrigation This arrangement was found very inconvenient because as the Government of India took a percentage of the proceeds of certain taxes they had a direct motive for interfering in the details of administration The Provincial Governments therefore pressed very strongly for complete separation They are still of the same opinion In the memoranda submitted to us by the Governnment of India it is said that opinion in India official as well as non official has for many years advocated the complete separation of the sources of revenue of the Central Government and the Provincial Governments as an ideal towards which the financial policy of the Government of India should tend and any suggestion for even a partial reversion to the system of divided heads might be regarded as economic heresy and would probably be received with considerable distrust by the Provincial Governments ' In principle the division of sources of revenue can scarcely be defended, as any division of sources of revenue which even at the time may be equitable is bound to prove either by expansion or contraction inadequate or excessive to one or the other Government If there is a setback owing to any special circumstance like the failure of the monsoon or a commercial crisis a serious disorganisation must result

A division of the taxes would be inconsistent with provincial autonomy From an administrative point of view the objection has been well stated by the United Provinces Government They say—' On administrative grounds too we would oppose any return to the *old system of divided heads of revenue*, which

Again, even if the councils are inclined to tax themselves they will find it inequitable to do so, since if custom and income tax continue as Central they cannot take steps to distribute taxation over the urban and rural population with the result that even if they are inclined to impose any taxation they will not do it. Another reason against fresh taxation is that increased expenditure from provincial revenues over the nation building departments and the consequent moral and material development of the provinces would result in an increase in receipts from income tax, customs and railways. So long as the whole of these increased receipts go to the Central Government the Provinces would be disinclined to raise the wherewithal to pay for increased expenditure.

Distribution by the Central Government

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(a) Of its existing surplus system of

47. As to (a) that is to say giving doles to the various provinces, this was rejected in the Montagu Chelmsford Report. Those who make this proposal are evidently unaware that the arrangement proposed is the same as or similar to that which existed before Lord Mayo's time and which was dispensed with by him for various reasons. The objections which applied then would apply to the proposals now put forward and we shall briefly state them. The demands of the Local Governments will be practically unlimited as there is no limit to their legitimate wants. Their constant effort will be to persuade the Government of India to give them as large a share as possible. The most importunate will get the largest share. The Government of India will be helpless to check the increasing demands as they have not the local knowledge needed for the same. Local economy will lead to no local advantage. There will thus be no stimulus to economy and avoidance of waste. The Local Governments will not adjust their expenditure to any fixed income and their demands will depend upon not what was absolutely required but what they hoped to get. The more they ask the more they will possibly get. The Government of India will never be able to form an impartial or comparative estimate of the imperative needs of a province which have to be satisfied immediately. The result would be conflict of opinion between the Government of India and the Local Governments. It was recognised as long ago as 1860 that "in order to avoid these conflicts it is expedient as far as possible that the obligation to find the funds necessary for administrative improvements should rest upon the authority whose immediate duty it is to devise such measures."

because the control of foreign liquor was in their own hands In proportion to the decrease of country liquor due to the carrying out of the national policy there was an increase of foreign liquor consumption—more than a million gallons annually The non official members of the Council of State and Legislative Assembly have unhesitatingly condemned the policy of the Government in this respect The official spokesman the head of the Medical and Health Department has defended liquor consumption A Foreign Government which for purposes of revenue and in the interests of England s liquor trade does not hesitate to tempt Indi[illegible] denunciation of Hindu and [illegible] nothing to do with the liqu[illegible] not be placed in a position [illegible] away from the Provinces other sources of revenue and compel them thereby to retain liquor revenue The Widows', Orphans' and Old Age Pensions Health Insurance, Unemployment Benefits, Maintenance and Maternity Benefits must all remain a dream under a foreign government

52 The system of Financial decentralisation which was inaugurated by Lord Mayo largely developed by Lord Lytton continued by his successors and to which a great impetus was given by the Reform Scheme of 1919, was not only one of the most beneficent but also an absolutely indispensable Reform This is what Sir John Strachey whom no one would accuse of pro-Indian sympathy, said on the subject "I have already quoted the opinion of Sir Henry Maine on these measures of decentralisation I believe with him that no more important and successful reforms have been made in Indian administration since the transfer of the Government of India to the Crown , but they have not reached their final limits I have repeatedly insisted that the primary fact lying at the root of all knowledge about India is the immense diversity of the countries and peoples which it comprises but it is a fact which centralisation of the Government ignores While our Empire was being gradually built up, concentration and centralisation in the administration were often inevitable Now that it has been constituted on a firm and peaceful basis, decentralisation is an essential condition of progress The time will come when in regard to nearly all the ordinary matters of internal administration, each great province of India will be virtually almost a separate state Not only will this result be obtained without the sacrifice of any part of that supreme authority of the Central Government which it is essential to maintain but we shall gain a largely increased [illegible] of political security No Central Government as Sir Henry Maine has observed entrusted with the charge of such an unexampled undertaking as the Government of India can escape serious occasional errors Under a centralised Government there is danger of generalising a local mistake Localised, a mistake can be corrected with comparative ease , it becomes dangerous

Sir John Strachey on decentralization

in proportion to the area of its diffusion " These observations apply to centralisation of customs and income tax quite as much if not more than to anything else Complete Provincial autonomy, full freedom for development under different and varying conditions is essential It would be lamentable if all this is prevented by reversing the policy followed for more than 50 years

IV

Communal Electorates

Para 69 of the Report of the Committee

53 Communal electorates and communalism in power have now been tried for the last 10 years, and the proof forthcoming from the provinces where those conditions have existed, i e, Bombay Punjab the United Provinces, and Bengal is conclusive to show that communal electorates should be abolished and communalism should no longer be installed in power.

Evils of Communalism

54 Some of the evils of communalism may be briefly mentioned The transfer of law and order is opposed by English officials on the ground that it is dangerous to place officials under Ministers who have to obey the communities who elected them to the Councils Appointments by the local bodies, whose members are elected on communal electorates, are made on communal lines Similarly, taxes raised from all communities are utilised for the benefit of the communities who have the majority in the Councils and whose nominees, by means of separate electorates, hold positions of power Boys of superior intelligence are denied admission or turned out of schools by representatives of communal interests, to make room for inferior boys belonging to their own communities to the loss of the country. Judges are appointed not for efficiency, but on racial grounds One Chief Justice exclaimed before us, with a gesture of despair, that he contemplates with dread the state of things a few years hence, as even now he and his colleagues had to recommend candidates for appointment on a communal basis at the instance of members of Government who owed their position to communal electorates In the pre reform days not a whisper was heard against Hindu or Muhammadan superior judges · there is scarcely one who is not now attacked on racial grounds This is due to the pressure exercised by communal electorates It is proved beyond doubt that one community places no reliance on officials belonging to the other communities The debates in the Legislative Councils are on communal lines as is bound to be the case when members are elected by communal electorates. Communalism has infected national life The increase of communal feeling due to separate electorates has been responsible for serious breaches of peace, for disaffection towards the Government on the part of that community which has not been favoured

by the Government, rightly or wrongly The influence of communalism due to the separate electorates is apparent in every thing done by those who owe their position to them, whether it be a "judicial decision, the giving of a contract a report on the work of a subordinate a recommendation for the enforcement of a penalty or the conferment of a favour" The state of feeling in the Punjab is described by the Governor himself in the following words —

> "We have, in the third place, a problem far more difficult than those I have described, because it deals with elements less tangible and factors less susceptible of direct approach or control We have to find some remedy for the toxin of intercommunal dissension which to day is vitiating our public and perhaps our social life Let me be somewhat more precise here and use such frankness as is possible in one whose heartfelt desire is to allay and not to provoke discord My reference is not mainly to communal rioting or open disturbance There has been such in the past, but the province must take credit for the fact that it has of late escaped that open violence which has been exhibited in some towns of some of our neighbouring provinces Disastrous as open disturbance may be, sinister as are its effects in prolonging the alienation of rival communities it is not the whole of the problem, perhaps not even its gravest feature My reference is rather to the fact that in every sphere of life and activity, in social matters in almost every question of administration in the management of local affairs in the conduct of education even in the current discussions of questions of law and justice the communal question intervenes The cause is I am aware deep seated

It is quite plain in these circumstances that the policy which has led to this result must no longer be followed

55 Indian opinion on this question is sharply divided The Hindu opinion is almost solid against separate electorates for Muslims Muslim opinion as already pointed out, is divided An important section of which the chief spokesman is Sir Mian Muhammad Shafi K C S I, who was a member of the Government of India, maintain that separate electorates are essential to secure adequately the interests of Muslims This section represents the All Parties Muslim Conference held at Delhi Another section of which the Maharajah of Mahmudabad, K C S I, who was for some time a member of the Executive Council of the United Provinces, and Sir Ali Iman who was for some time a member of the Government of India are the leaders represent the views of the All India Muslim League, that separate electorates are not only against the interests of the Muslims and fruitful of evil but are opposed to the interests of Indian Nationality A third section stands midway between these two The younger generation of Muhammadans is generally inclined to adopt the view maintained by the Maharajah of Mahmudabad and does not support the views of the extreme section who maintain that separate electorates are essential This division of opinion exists also among the Muslim members of this Committee

Indian opinion on Communal Electorates

Conditions of the problem

56 In dealing with the question of separate electorates for Muslims, it is necessary to bear in mind the conditions of the problem The Muslims do not merely demand that separate electorates as they exist now should continue till they are given up by the community itself ; but they insist upon further and farreaching extension of communalism It is not also their case that they should have seats reserved to them on the voting strength , that is to say, in the proportion which their votes bear to the total number of votes Nor is it the case that they should be allowed to vote separately in separate electorates, and seats should be reserved to them on the population basis in all provinces Both these demands the non Muslims would be willing to concede

Two of our colleagues support all the demands of the Delhi Conference and are not willing to continue the present arrangement, *i e*, retain the present proportion of seats in all the provinces A proposal was made to them that in provinces where they were in a minority the Muslims should be guaranteed seats on the population basis in separate electorates and that they should have further a right to contest seats in other electorates , that is to say, double votes were proposed to be allowed to them This was not acceptable to them

It was then proposed that in a joint electorate no Muslim candidate shall be deemed to have been duly elected unless he secures a majority of the Muslim votes polled and not less than one tenth of the total votes polled by Hindu voters , and that no Hindu candidate shall be declared to have been duly elected although he has obtained the majority of votes unless at least 10 per cent of the votes polled by him are recorded by Muhammadan voters This was also not acceptable to them They insisted that the extreme Muslim demands formulated at the All parties Conference held at Delhi under the presidency of His Highness the Aga Khan with reference to the question of the Muslim representation in the legislatures services and cabinets of the various provinces should be accepted in other words, (1) that in the Punjab and Bengal where the Muslim population is in a majority, they should have a majority of seats, while in the provinces like Madras, Bombay, the United Provinces and the Central Provinces, where they are in a minority, they should have a far larger number of seats than they would be entitled to on their voting strength, or on the population basis , and that in the Legislative Assembly they should have one third of the seats reserved for them , (2) that in the public services they should have appointments reserved to them , that is to say, that judges, magistrates, etc , should be appointed, not with reference to their qualifications, but with reference to their religion , (3) that at least one Muslim member in the Cabinet in provinces where they are in a minority should be guaranteed by statute

57 These demands cut at the root of representative government Political progress is impossible on this basis, and it is far better that nothing should be done now than that these demands should be conceded Such is our opinion We accordingly proceed to give a history of the question, and to state how it should be decided Before the Government of India Act of 1919 when the functions of the Legislative Councils were only advisory, the members were naturally selected to put forward the claims of particular classes and not to come to any conclusions in co operation with others The decision of all questions was left to the Government The result was the selection of those who put forward the claims of their own class without any regard to the claims of others The members were really advocates and not legislators and hence Lord Lansdowne wrote in 1892 that "the representation of such a community upon such a scale as the Act permits can only be secured by providing that each important class shall have the opportunity of making its views known in Council by the mouth of some member *specially acquainted with them*", not necessarily by some one competent to form a correct judgment

Origin of Communal Electorates

58 It was at the time of the Morley Minto Reforms that the claim for communal electorates was advanced by the Muhammadans inspired by certain officials It was admittedly made on the ground that while the Muslims are a distinct community with separate interests of their own which are not shared by other communities no Muslim would ever be returned by the existing electoral bodies *unless he worked in sympathy with the Hindu majority in all matters of importance* Lord Minto s Government promised the Moslems that they would be given separate representation The Government of India said in their despatch No 21 dated the 1st October 1908 that these proposals were as a rule adversely criticised by the Hindus "who regard them as an attempt to set one religion against the other and thus to create a counterpoise to the influence of the educated middle class"

Morley-Minto Reforms

59 In 1915 however owing to the attitude of England towards the Muhammadans outside India there was a definite rapprochement between the Hindu and the Muhammadan leaders All the elected members of the Imperial Legislative Council who were then present at Simla devised a scheme of reforms This was accepted by the Congress and the Muslim League and amplified and modified in certain particulars The portion of the scheme relating to the communal representation of Muslims reads as follows —

The Lucknow Pact

Adequate provision should be made for the representation of important *minorities* by election and the Muslims should be represented through special electorates on the

provincial Legislative Councils in the following proportions —

Punjab	One half of the elected Indian members
United Provinces	30 per cent of ditto
Bengal	40 per cent of ditto.
Bihar and Orissa	25 per cent of ditto
Central Provinces	15 per cent of ditto
Madras	15 per cent of ditto
Bombay	One third of ditto"

Under this scheme while the Bengal Muslims were allowed only three quarters and the Punjab Muslims nine tenths of what they would have received upon a population basis, the Muslims of the other provinces received extremely liberal representation But even the Bengal Muslims and the Punjab Muslims received more than what their voting strength entitled them to

Montagu Chelmsford Report and Communal Electorates

(4) In the Montagu Chelmsford Report paras 228, 229 and 230 communal electorates were condemned

"228 The crucial test to which as we conceive, all proposals should be brought is whether they will or will not help to carry India towards responsible government Some persons hold that for a people, such as they deem those of India to be so divided by race religion and caste as to be unable to consider the interests of any but their own section, a system of communal and class representation is not merely inevitable but is actually the best They maintain that it evokes and applies the principle of democracy over the widest range over which it is actually alive at all, by appealing to the instincts which are strongest and that we must hope to develop the finer, which are also at present the weaker instincts by using the forces that really count According to this theory communal representation is an inevitable and even a healthy stage in the development of a non political people We find indeed that those who take this view are prepared to apply their principles on a scale previously unknown and to devise elaborate systems of class or religious electorates into which all possible interests will be deftly fitted But when we consider what responsible government implies and how it was developed in the world we cannot take the view We find it in its earliest beginning

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same root principle The solitary examples that we can discover of the opposing principle are those of Austria a few of the smaller German States and Cyprus It is hardly necessary to explain why we dismiss these as irrelevant or unconvincing We conclude unhesitatingly that the history of self government among the nations who developed it, and spread it through the world is decisively against the admission by the State of any divided allegiance against the State's arranging its members in any way which encourages them to think of themselves primarily as citizens of any smaller unit than itself

"229 Indian lovers of their country would be the first to admit that India generally has not yet acquired the citizen spirit, and if we are really to lead her to self government, we must do all that we possibly can

to call it forth in her people Division by creeds and classes means the creation of political camps organised against each other and teaches men to think as partisans and not as citizens, and it is difficult to see how the change from this system to national representation is ever to occur The British Government is often accused of dividing men in order to govern them But if it unnecessarily divides them at the very moment when it professes to start them on the road to governing themselves it will find it difficult to meet the charge of being hypocritical or short sighted

230 There is another important point A majority which is given special representation owing to its weak and backward state is positively encouraged to settle down into a feeling of satisfied security it is under no inducement to educate and qualify itself to make good the ground which it has lost compared with the stronger majority On the other hand the latter will be tempted to feel that they have done all they need do for their weaker fellow countrymen and that they are free to use their power for their own purposes The give and take which is the essence of political life is lacking There is no inducement to the *one side to forbear or to the other to exert itself The communal system* stereotypes existing relations

61 So far as we are aware these arguments have not been answered For these reasons the framers of the Joint Report refused to extend the communal principle beyond the communities to whom pledges were given leaving the representation of other communities to nomination In para 15 of the Franchise Committee s Report it was recommended that separate electorates should be created for Hindus and Muhammadans in view of the general agreement in favour of communal representation for Moslems In allocating the proportion of Muhammadan and non Muhammadan seats the committee followed in general the agreement reached at the joint session of the Congress and the All India League at Lucknow in December 1916 known as the Lucknow Pact and considered that any departure from its terms would revive in an aggravated form a controversy which it had done much to compose *Franchise Committee s Report*

62 The Government of India while agreeing in the condemnation of communal electorates said that the then conditions of the country required their retention but they were of opinion that the proportions laid down in the Lucknow Pact could not be taken to represent the right relation either between Muslims in different provinces or Muslims and the rest of the community They took the view however that the Congress League compact was an accomplished fact and a landmark in Indian politics which they could not possibly ignore they felt, therefore like Lord Southborough s Committee that whatever the defects of the compromise it was not one that they ought to reopen They therefore accepted the conclusions of the Committee in favour of the proportions agreed upon in the Lucknow Pact with one exception They felt that the Muslim representation proposed for Bengal was manifestly insufficient they doubted whether the claims of the Muslim population of Eastern Bengal had been adequately pressed when the Congress-League compact was in the making They recommended therefore that the Bengal Muslims should be allotted 44 seats instead of 34, and left it for *The Government of India s recommendation.*

further consideration whether the addition should be obtained by enlarging the Council or by withdrawing seats from other interests or by a combination of both plans One member of the Executive Council of the Governor General was in favour of accepting the Committee s report The Government of India refused to admit claims for separate electorates put forward by the other communities

View of the Joint Select Committee

63 The Joint Select Committee differing from the Government of India accepted the recommendations of the Franchise Committee in respect of the proportionate representation of Muslims based on the Lucknow Pact On the subject of the representation of minorities the Joint Select Committee of Parliament contributed one suggestion They said that it seemed to them that—

> the principle of proportional representation may be found to be particularly applicable to the circumstances of India '

and they recommended that—

> this suggestion be fully explored so that there may be material for consideration by the Statutory Commission when it sits at the end of ten years

When the subject came before the Parliament Mr Montagu ' ' mmunal representation more great mistake but added that d for temporarily in order to secure proper representation he believed they were well worth having

The case against Communal Electorates

64 This principle of communal representation is opposed to the fundamental principles of democracy It compels a man to vote for one of his own community even though in his opinion, he ought to vote for a member of a different community who might better represent his interests or national interests Further a Government representing a particular community or communities is given the power of taxation over other communities The other communities which had no hand in the election of the Government become simply their taxpayers to supply funds whic d against the ... of ot tive separate electorates will in all probability have a permanent majority in the The position of a minority e majority in the Legislative tunate They themselves will have no opportunity of becoming members of Government with the result that no policy of their own will be carried out This will continue therefore to intensify the feeling between the Hindus and Muhammadans Again it is possible that in the future Councils the non co operation or the extreme left wing of Indian politicians might seek admission for

the purpose of paralysing the administration If the Muhammadans vote in the joint electorate it is possible that they might prevent the return of many such members

Some of the arguments in favour examined

65 It is argued in reply to this that the Muhammadans returned by a joint electorate might not represent the true Muhammadan view when it is opposed to that of the majority of their electors But this non Moslem influence may be exercised even if the electorates are separate It is in this connection to be remembered that the Hindus are split up into Brahmins non Brahmins, Caste Hindus and the depressed classes, and from the evidence before us the feelings between them are not less bitter than those which exist between the Hindus and the Muhammadans It is unlikely therefore that the voting will be on Moslem and non Moslem tickets respectively Moreover it is unlikely that there will be only one Hindu candidate for election, and the Muhammadans therefore may be able either to secure the return of one of their own community or of a Hindu who is not a rank communalist To us the fact that a Muhammadan who belongs to the extreme left wing would be elected in a separate electorate is an argument for a joint electorate which would secure the election of a moderate Muhammadan who will be in favour of the policy of Turkey Iraq and Cairo and co operate with moderate Hindu For it has to be remembered that it is comparatively moderate Hindus or Muhammadans who will be returned by joint electorates

Change of conditions since Lord Minto s time

66 It is often said that we must adhere to the promise made by Lord Minto s Government to the Muhammadan Deputation that waited on him in 1907 8 We will not bring forward the fact which is now established beyond doubt that there was no spontaneous demand by the Muslims at that time for separate electorates but it was only put forward by them at the instigation of an official whose name is now well known But the promise in itself is not adhered to either in letter or in spirit Separate electorates at that time were only contemplated in the case of those Muslims who formed a minority in any province whereas it is now insisted upon not only in those provinces but in Punjab and Bengal where Muslims form a majority Even now there might be some reason for granting their request if the Muslims confined themselves to those provinces where they form a minority Further that promise was made at a time when what was required in the Council was not representatives but persons who would be able to put forward all that could be said in favour of the community with as much force as possible For this separate electorates were more favourable At that time the Muslims were apathetic they had so to say no political consciousness None of these reasons exist at the present time Moreover a promise made by the Government ex parte without having heard what the Hindus had to say cannot be pressed against the Hindus if it works injustice and for various reasons is not in the public interest but

is harmful in its results Again when the promise was made the evils of communal electorates were not foreseen The number of voters was not anticipated to be large and the class of voters contemplated was much superior to the majority of the present voters in education and intelligence, so that there was very little risk of communal questions permeating the masses

Our conclusion Joint Electorates and Reservation of Seats

67 We are therefore of opinion that special electorates should be dispensed with and a system of election by joint electorates should be introduced If after sufficient experience has been gained it is found that they should be dispensed with and separate electorates are required in public interests it may be left to the Executive Government and the Legislative Council to reintroduce them without any further enquiry or legislation But unless separate electorates are now dispensed with we shall not be taking any steps towards our goal but going away from it As already pointed out reservation of seats in the Central Legislature reservation of appointments in the Government Services and in the Executive Councils are some of the claims advanced by two of our Muslim colleagues The continuance of the present state of things or in other words election by separate electorates under the Lucknow Pact is not acceptable to them Election on the population basis where the Muslims are in a minority by separate electorates with an additional right to contest other seats in joint electorates is also not acceptable to them While dealing with the Madras Presidency it was proposed that we should retain the separate representation through separate electorates to the extent already conceded but should refuse any further advance This was rejected No accommodation was therefore possible between those who put forward the Muslim claim and others who were opposed to this extreme demand It was accordingly decided by the Committee that separate electorates should be abolished and joint electorates with reservation of seats substituted in their stead

Safeguards for minorities

68 It was argued against this resolution that the minorities throughout India desiring the continuance of separate electorates should be allowed to retain them until the majorities are able to satisfy the minorities that their interests are safe in the hands of those majorities But this pre supposes that the majorities are in a position by their conduct and by their government to give such satisfaction to the minorities For this purpose it is necessary that Home Rule or Self Government should be granted first so that the Muslims where they are in the majority may satisfy the non Muslim minorities that their interests are absolutely safe under the Muslim majorities and the Hindus in the provinces where they are in undisputed majority may prove to their Muhammadan fellow subjects that they have no reason to regret their predominance It is also necessary that the representatives of the majorities who have come into power should be persons who have got the will

to bring about rapprochement between the rival communities It is difficult if not impossible to attain this object if the men who come into power owe their position to separate electorates and feel bound to enforce the claims of their special communities against the other communities, rather than bring about equal justice between them In order to carry out this suggestion therefore it is necessary to get rid of separate electorates, and to introduce joint electorates at once and give self government to the provinces In order to remove the fear that no Muslim may be elected by a joint electorate we would propose that the Muslims should be guaranteed a minimum number of seats with liberty to win more It is open to the Governor or the Secretary of State to veto any bill that may be passed by the Legislative Councils It appears to us therefore that no real injustice can be done to Muslims in the face of these provisions

69 If in spite of this the Government come to the conclusion that in those provinces where the Muslims are in a minority, they should be allowed separate representation they should not certainly be allowed any excessive representation If the Lucknow Pact is invoked it must be taken as a whole and the Muslims should be given seats according to that Pact in all the provinces in India as therein contemplated whether they are in a minority or in a majority Otherwise if any excess representation is given it will not be fair and it will also embitter the feeling between the parties It is surely irrational to give a party a privilege for insisting on what is really wrong in principle and what is admitted by themselves to be not the road leading to the goal of self government It is putting a premium on class conflict Moreover if this privilege is allowed to Muhammadans it cannot be disallowed to the other minority communities One of the arguments in fact the main reason urged against the grant of provincial autonomy is this difficulty as neither community wishes the administration of justice and the control of the Police in particular to be under the control of a member of the other community Excessive representation opposed

70 In the Punjab and Bengal where the Muslims are in a majority there are strong reasons for disallowing separate electorates Lord Minto's pledge does not extend to these two provinces Separate electorates have been a contributory cause if not the sole cause of the widespread breaches of the peace in these provinces in recent years Legislative Council members appeal to communal feeling for support The number of voters has been increased so enormously in Punjab and Bengal that candidates find it to their advantage on account of separate electorates to rouse the masses on communal lines Leaders of communities have stressed the communal point of view in their speeches and with the help of religious preachers have Case of the Punjab and Bengal

rous d the fanatical instincts of the masses who naturally resorted to physical violence In provinces where the Muslims are in a majority there is no justification or excuse for communal electorates Separate electorates were not intended for the majority communities The pledge given by Lord Minto therefore has no application nor is it required for the protection of the Muslims The elections to district boards in the Punjab and Bengal by joint electorates prove it if proof is wanted The reason assigned for the continuance of separate electorates is unsatisfactory It is said that elections by joint electorates would lead to bloodshed and ill feeling It is impossible to yield to threats of violence On the other hand it shows a want of self respect on the part of the majority community to demand separate electorates for their protection against a minority community

V

Law and Order

Para 41 of the Report of the Committee

General considerations in favour of transfer

71 The transfer of law and order has been very strongly objected to in various provinces There are certain general considerations which have to be borne in mind in deciding this question The declaration of 1917 lays down self government as the goal Any step that we now take towards the attainment of that goal must be one which would enable the people of the country to govern themselves The ordinary people are more interested in the security of their person and property than in anything else The people generally complain that they suffer from the iniquity of the subordinate officials It is not possible for the higher officials to check the latter But if law and order and the police are transferred to the control of the Legislative Councils the people generally will take great interest in the elections and will see that their representatives in the Councils take the necessary steps to secure the purity of the lower services and protect them against any opressive conduct on their part If the policy laid down in 1917 is to be carried out the subjects which most concern the people of the country, will have to be placed under the control of the Councils Until that is done there is no good saying that the voters do not take any interest in the elections or do not look to the character of their candidates They naturally would not care for whom they vote as long as they feel that the candidates have no power to deal with questions in which they are most interested If Parliamentary Government is to be a success in India law justice and police the subjects which would call for the devoted attention of the people of the country must be

transferred In 1919 and for some time afterwards objection was taken to the placing of the subject of law and order including the police under *Indian* control It is satisfactory now to note that that objection is no longer pressed Indian members of the Executive Councils have been in various provinces like Madras United Provinces Assam, Central Provinces etc, in charge of law and order and police and it was expressly stated before us by high English officials that they did not complain of the administration of those departments by Indian members

Indian Officers better fitted to deal with riots

72 One of us is satisfied after forty years' experience as a lawyer defending the parties to riots and prosecuting them on behalf of the Government and again as a High Court Judge dealing with cases of riots that ordinarily a superior Indian police officer or Magistrate can take the necessary steps to prevent a riot He can also get correct information with reference to an impending riot A non Indian who however clever and intelligent does not associate directly with the people of the country and with the leading citizens in the locality who alone can give him the necessary information, will not only be in an unfavourable position to form a true diagnosis but is very often misled The superior English officials are thus misled by their subordinates who are influenced by communal feelings This is the reason why many of the riots that have taken place in India were not prevented It is certainly so in the case of the most formidable of them in recent years Indian Judges and the Indian members of the Legislative Councils have been foremost in demanding the enforcement of the law The certainty that they will be upheld by Ministers and Legislative Councils when law and order is transferred is therefore a sufficient guarantee that Indian Magistrates and police officers will carry out the law and put an end to riots It may be that men appointed by nomination for racial or class reasons may fail but those who come in by competition or are appointed not for racial or class reasons but solely for efficiency and capacity are not likely to fail in their duty The Indian Magistracy and the police will be bolder in action and strictly and severely impartial when they know that in that line of conduct they will be upheld by the Indian Minister and the Legislative Council and will not be censured by superior officers ignorant of the local conditions and under the influence of the apparent necessity of upholding caste or class claims

Abolition of Communal Electorates will lead to impartial administration of Law and Order

73 The only objection which to our mind is real is the placing of these departments under the control of the communal Legislative Councils and Ministers who are the nominees of such Legislative Councils As the earlier apprehensions with regard to Indian control have proved to be unfounded there is reason to think that the apprehensions as to the future with regard to Ministers and the Legislative Councils will also prove unfounded The objection is that the Councils will be dominated by sectional

or communal feelings that the Ministers will be compelled to act in accordance with the views of their supporters and therefore the administration might suffer This objection can only apply to Ministers who come into power through separate electorates, and it is therefore a strong argument for the abolition of separate electorates If the Government get rid of separate electorates such objections cannot be raised and it is unfair that those responsible for separate electorates or who would now press for their continuance should put forward these objections

Evidence on the point.

74 Failure to realise this fact has led to a good deal of confusion in the evidence We shall quote the following passages from the evidence of an important witness Mr F C Griffith C S I Inspector General of Police in the Bombay Presidency

Col Lane Fox

Q 27 I suppose your main troubles are due to communal difficulties ?—A At present yes

Q 29 Do you find you can use only certain portions of your force in certain cases ? If there is trouble either of a Muhammadan or Hindu character have you to use certain sections of your force to deal with it ?—A No *The rank and file are policemen first and Hindus or Muhammadans afterwards* (The italics are ours)

Q 30 The fact that so many troubles are due to that particular question makes the proposal to make law and order a transferred subject instead of a reserved one more difficult because the main trouble which might imperil law and order would be communal ?—A Yes

Q 31 Therefore the Minister might sometimes be in a great difficulty if it was a communal trouble which affected his own particular party ?—A Yes

The Chairman

Q 80 Then I would like you to tell me one other thing so as to be clear and frank about it Supposing that there is a sudden outburst of trouble of an intensely communal kind which is your impression of the public feeling ? Is the ordinary public here equally satisfied if there is communal trouble to have the police handled by an efficient police officer who is himself of either one conflicting party or the other or does the public in a case like that show any desire to have the situation handled by an English policeman not I suggest at all because the English policeman is any better man but because he is neither of one side nor the other by race or religion Is that how you find it ?—A I think that is so

Q 81 Tell us within your experience how you find it is ?—A Within the last month or two we have had a serious outbreak of communal disorder in a place called Godhra in this Presidency It so happens that the Superintendent of Police there is

a Muhammadan. He is a very fine police officer, and also a very fine Muhammadan, he is known, in fact, as the Maulvi Sahib, which I think is rather significant, because it means that he is a man who is really a true follower of his own religion There was straight away an outcry from the leading Hindus of that locality, demanding his immediate transfer, and they even went so far as to suggest that he himself had prompted the riot, although he was not there at the time, and a lot of loose statements were made which must have made his position extremely invidious, but he has been working very well indeed, and investigating the cases We have given him the assistance of some officers who cannot be accused of communal bias one way or the other, both of whom are Parsis, just the same as we had to do at Broach for the actual investigation

Q 82 If I follow what you are telling us, which is certainly very interesting, the sort of difficulty you seem to sketch is not, of course, the difficulty that the Indian officer is not a perfectly upright and responsible person, but that his own circumstances expose him to suspicion and attack ?—A Yes, exactly

K B Bhutto

Q 125 On what consideration ? It would only make the position of a Minister difficult, or do you think at the same time you will not be able to maintain the efficiency of the police ?—A I do not fear that, what I fear is trouble afterwards I would envisage a situation where the Minister was elected and sent to the House by the constituency where the riot took place He is, we will say for the sake of argument, a member of one of the two conflicting communities No policeman would dare to act if he had doubts as to what might happen to him afterwards when the time came to sweep up the pieces This is why in broad outline I think it would be extremely dangerous to transfer law and order at present

Rao Sahib Patil

Q 169 I want to know your difficulty about transferring your department to popular control Considering those difficulties, cannot you answer my question ?—A The reason I gave before was that I did not think it right that a police officer should be placed under the orders of a M [illegible] threaten his very [illegible] The easiest thing [illegible] the police officer in order to maintain his position and frankly I do not feel that the time has come when we should be absolutely safe and certain that that would never happen and until I do have that feeling myself I should always be antagonistic to the transfer of the police department to a Minister who is responsible to the electorate

Q 178 Have you any experience of receiving complaints against European officers also in times of communal tension being partial to one side or the other ?—A. Yes, we have had

Sir Hari Singh Gour

Q 235 You say you would not allow law and order to be placed in charge of an Indian Minister ?—A. Yes

Q 236 I suppose you have no objection to law and order being placed in charge of an Indian member ?—A. No

Q 240 With the experience you have of working under an Indian member you have no objection to law and order being administered by an Indian member ?—A I should like to make it perfectly clear that my objection is not to the Indian but to his being dependent upon popular vote That is the difference It is not anything racial and I should like to make this point very clear

The position examined

75 These questions show as pointed out a misconception of the Indian position Difficulties similar to these have been raised to the transfer to Indians of any control of the administration. They have been answered before But as the Commission has examined no Indian witnesses who are competent to deal with these questions it is only right that we should state what has passed before It used to be stated formerly that Indians are incompetent by their character to deal with riots and other troubles of a similar nature It was proved however before the Public Services Commission that while surrounding districts under English officials in Bengal were seething with disaffection and riots, the district under Indian control was peaceful—without any trouble It has now been proved that Indian members of the [illegible] tration of police and of th Central Provinces, [illegible] ted themselves to the satisfaction of all European officers, and the witness whom we have quoted states that he has no objection whatever to Indian members of Executive Councils on the reserved side dealing with these questions (See Q 235 236, 240) His objection is only to transferring them to the control of the Councils as now constituted and there is a good deal of truth in this. After the reforms when communal electorates were introduced and appointments were made on communal lines, the objection was raised by Indian politicians that the men so appointed were subject to communal influences, and that very often they were responsible for carrying out their duties under such influences. The Director of Public Instruction in Bombay puts this point very clearly " The chief result of the Reforms is the emphasis they have given to differences of religion and caste owing to the system of special representation which they have set up " The obvious remedy therefore is the elimination of communal electorates and the substitution of joint electorates.

Charge of communal bias against officials is no bar to transfer of Law and Order

76 There has always been an objection against English officials on the ground that they act under the influence of subordinates and favour one side or the other, according to the communal influence of their subordinates It is also a complaint against them that their main consideration is the enforcement of peace even the peace of death irrespective of the rights even fundamental rights of the parties involved They are often swayed by a natural feeling in favour of the weaker party without reference to the rights of the other party In some respects it is also alleged that they are animated by political bias It is untrue therefore to say that as between the conflicting races of India the Englishman is invariably accepted as an impartial person This fact appears from the statement of the Inspector General in Q and A 178 given above It is admitted also in the memorial presented to us by the All India Association of European Servants where they state that though the services rendered by European officers when communal troubles break out are at the time gratefully acknowledged by those chiefly concerned the advanced politicians almost invariably have fault to find with the measures taken to restore the peace if they do not actually attribute its breach to the machinations of Government and its European officers The officers in question are thus not above impeachment In the case of Indian officials that impeachment arises out of communal prejudice intensified by communal electorates and surely cannot avail those who are themselves responsible for communal electorates So far as we can see therefore it cannot be advanced as a reason against the transfer of law and order The only remedy is the elimination of separate electorates

Communal bias unlikely to continue.

77 Moreover, in the future Legislative Councils even if separate electorates are retained all classes of Hindus Brahmin non Brahmin etc are likely to be adequately represented The future members of the Government will not be appointed by foreigners They will

of the Legislature to

tore likely to commit

charge If it appear

province intolerable t

is that in such a province unless separate electorates are abolished, or the communities work in harmony there should be no provincial autonomy Those who demand it must agree to abolish separate electorates and accept joint electorates Otherwise there should not be any substantial advance

Causes of riots examined and conclusion

78 Again the questions in which it is said that the Councils or the Ministers will be actuated by communal considerations are those which relate to riots between Hindus and Muhammadans and between the various classes of Hindus Now it is important to inquire into the reasons of these riots as they will indicate the solution of the difficulties So far as the riots

on account of the playing of music before mosques are concerned, they are due to the failure of the magistracy and police to enforce the law In the eighties of the last century this question first arose in Madras The law was enunciated by the High Court, and riots due to this cause are practically a thing of the past in that Presidency The law, as laid down by the High Court, has now been accepted by the Judicial Committee of the Privy Council about two or three years ago, and its enforcement throughout India is bound to put an end to the trouble The case is the same as regards cow slaughter The Muslims are entitled to slaughter cows subject to any municipal regulations or laws In all such instances Indian Magistrates and superior police officers, whether Muhammadan or Hindu have seldom failed in their duties, and if communal tension is not to grow and these riots are to be put an end to it seems essential, in our opinion, that the law should be strictly enforced Indian officers are in our opinion, better fitted to enforce the law and prevent riots

VI

Second Chambers in the Provinces

Para 104 of the Report of the Committee

79 Under the terms of reference we are required specially to report upon the question whether the establishment of second chambers of the Local Legislatures is or is not desirable ' Ordinarily the second chamber is intended as a protection against hasty legislation by the popular chamber against tyrannical legislation against a particular class or minority and against careless legislation In India the question of the second chamber has to be dealt with on different lines and on different principles

Earlier proposals for a Second Chamber

80 In 1919 the majority of the Government of India were in favour of second chambers in the provinces, not on any of the grounds stated above but to enable the Executive Government to pass any legislation they considered essential One member dissented from that view on the ground that the Governor himself should undertake the task which according to his colleagues would devolve on a second chamber The question, according to him was not whether it is necessary to create a second chamber in order to protect the people of the country against a popular chamber but whether such powers as are required for protection against the popular chamber must vest in the Governor or in a second chamber created for that purpose For it must be remembered that we cannot have both since a Governor will scarcely venture to act against the united opinion of a popular chamber and of an upper chamber , it would not be safe for him to do so

81 Now in the provinces where it is proposed to create a second chamber the Governor may be empowered if necessary to take part in the administration He would in any case be entitled to veto a Bill passed by the popular chamber He may also be allowed not to give his sanction at once but to reserve it for consideration He would then have all the powers which may be exercised by a second chamber though we do not think anybody would suggest that there should be a final power of veto in a second chamber Now we are not aware that there is a second chamber anywhere where the Governor has the above powers over the popular chamber The case for a second chamber becomes weaker when we remember that not the Governor alone but the Governor General and the Secretary of State have got the power of veto over legislation passed by a provincial Council *Arguments against a Second Chamber*

82 Again a second chamber in India would consist of the nobility plutocrats and all other representatives of privilege, wealth and power In the days that are coming we expect that the popular chamber would emancipate women from the tyranny of religious and customary laws and give them equal rights with men in every department of life Such measures would meet with strong opposition in the upper chamber and would in all probability be thrown out But if it is the Governor in whom the power of veto is vested the probabilities are that he far from vetoing the measure would render all possible support to the passing of the measure into law Take again the case of any measure passed in favour of the depressed classes untouchables or tenants In all these cases an upper chamber would stand in the way of the popular chamber whereas if the power is left to the Governor the probabilities are that he would not veto the measure Conversely if a measure is passed in the Council supporting orthodoxy against women supporting wealth and influence against the weak and the helpless an upper chamber is sure to support those laws but if it is the Governor who is to deal with them he would in all probability veto them Thus the question is whether the powers which are intended to prevent tyrannical legislation should be vested in the Governor—a representative of western civilisation who would act in accordance with the principles of that civilisation or in an upper chamber who would represent orthodoxy wealth and property and would generally be opposed to real progress There is scarcely any doubt about the right answer to this question *Ditto*

83 An upper chamber may also be subject to the influences which we wish to guard against in the case of the popular chamber The upper chamber itself may be stampeded into legislation by a popular wave of passion Those who remember the course of the Rowlatt Bill will know what we mean On that occasion every non official member of the Legislative Assembly, *Ditto.*

including nominated members and those who invariably voted with the Government voted against the Rowlatt Bill for the only reason that there was a strong popular agitation against the Bill which compelled them to vote against it An upper chamber in such cases may not be a safeguard against hasty, impulsive or oppressive action

Arguments against a Second Chamber

84 Again another reason is that if the upper chamber is endowed with these powers we will be placing the Governor in an awkward position vis-a-vis the upper chamber The measure may have received his full consideration and support We will be authorising the upper chamber to veto a measure which a Governor has considered necessary. For all these reasons we are of opinion that in principle an upper chamber is not required wherever the Governor is entitled to carry out the purpose for which an upper chamber is to be created

Ditto and Conclusion

85 All the above arguments have reference to the question whether the Governor or a second chamber should act as a check on the popular chamber Now leaving aside the Governor and confining ourselves solely to the second chamber, the two important questions that arise for consideration are (*a*) what is to be the constitution of the second chamber and (*b*) what are the steps to be taken to remove a deadlock between the two chambers ? On the first question we are confronted at once by the fact that in any second chamber communalism is bound to be introduced the Muslims Sikhs and other minority communities will claim to have representation in it If communal representation could be dispensed with in the popular chamber and confined to the second chamber there might be something to say for the latter but there is no chance of that Those who claim communal representation in the second chamber insist on being allowed to retain such representation in the popular chamber Again if all the members of the second chamber are to be elected, we will be practically getting rid of responsible government The ministers in the popular chamber can hardly be held responsible then for the proper administration of the various subjects which are entrusted to them Moreover we take it the franchise for the second chamber will be such as to bring into the second chamber men of property, commercial representatives, and men who have held high offices under the Government Conflicts between the two Houses are likely to be frequent Further, representatives of these classes now sitting in the popular chamber cannot reasonably be allowed to continue to sit there when a place is found for them in the second chamber But this would be to their own detriment and to the detriment of the other chamber, which will not have the benefit of their counsel The method proposed for removing deadlocks is a joint conference and a decision by the majority This result is attained by the present constitution itself, under which all these members, that is, the men of property and repre-

sentatives of commerce and industry, are elected by their own special electorates to the popular chamber In all the proposals which have been placed before us there is a provision for nomination by the Government of officials and non officials We have found that the official bloc and the nominated bloc have been responsible for the breakdown of the reforms It is unthinkable therefore to re introduce this system in an indirect form On the whole we are against the establishment of second chambers in the Provinces except in the one case recommended by the Committee

VII

The Depressed Classes

Paras 78 and 79 of the Report of the Committee

86 If it were possible to lower the franchise so as to give votes to the Depressed Classes agricultural labour and Hill Tribes we would willingly accept the proposal but the official opinion is that the franchise cannot be so lowered A special franchise for the Depressed Classes alone would not be fair If the Depressed Classes are to have a special privilege in this matter it will constitute a legitimate grievance to those who are admittedly much better fitted than them to exercise the franchise whether we take education property or any other test The latter should also get the same franchise otherwise they will be left unable to defend themselves against the attacks of the representative of the Depressed Classes If by lowering the franchise or by adult suffrage all the classes are given representation there will be no injustice Suggestions examined Special Franchise

87 Separate electorates for the depressed classes are inadvisable There is a great political danger that separate electorates will immediately expose the depressed classes to communistic influences Again we have the experience of the Muhammadan separate electorates before us They have been productive of mischief and admittedly they do not lead to self government The Muhammadans are strong enough to take care of themselves and therefore while separate electorates have intensified the gulf between them and the Hindus neither community has been crushed by the other But in the case of the Depressed Classes the result will be altogether different Under separate electorates the caste Hindus being hostile to them they will not be able to hold their own Separate Electorates

88 In joint electorates it is possible that for the first few elections the depressed classes will be entirely under the influence of their landlords and caste Hindus but increasing political consciousness will free them more and more from such influence Further there is no reason why in the matter of representation they should be given preferential treatment over labour and Hill Tribes All these classes require the same degree Joint Electorates

of protection and representation Lastly to brand certain classes as Depressed Classes is also to make them enemies to the other classes for ever, with no hope of religious or social uplift

Nomination recommended

89 As these classes under the present conditions will always act only under outside pressure often very undesirable Sir Sankaran Nair is of opinion that they should be represented by nomination The evils of nomination in the provinces would now disappear as all subjects would be transferred The Governor should be empowered to nominate representatives of these classes before the Council itself is formed so that the Ministers will have no voice in their nomination

VIII

The Central Government

Para 123 of the Report of the Committee

Burden of taxation in England danger of transferring expenditure in India

90 The burden of the war debt is almost crushing England She has mortgaged her future to meet this obligation and every device will be adopted to lighten and ease her burden The difference between devices legitimate and illegitimate is often indistinct With interest combined with power it is only natural that she should try if possible to shift her burden to India, in a way which Indian public opinion would not support England s prosperity depends on her exports India s cotton duties were abolished in the interests of Lancashire So far as coarser counts are concerned her supremacy is over so far as the finer counts are concerned the science and the industry of Germany and Japan have challenged her supremacy and it will soon be a thing of the past Lancashire unemployment will be a strong temptation to the British Government to dump England s goods in India In other respects also her share of the oversea commerce of the world has declined I on steel shipbuilding have suffered The Governments and the people have not been able in spite of strenuous efforts to regain their old position so far as these are concerned This loss of trade has materially contributed to the distressing problem of unemployment In a situation like this a vigilant Indian Parliament and a firm Indian Finance member, supported by that Parliament and able and willing to carry out its behests are indispensable

Unemployment in England its repercussions in India

91 The burden of English unemployment has to be viewed in relation to economic conditions in India England is examining the economic relations between herself and the various countries of the world to discover ways of expanding her trade Since the war she has lost a big share of her markets , her manufacturers and financiers are combining in close co operation with her banks and trade organisations They are supported by the British Government with its full strength Members of Government act as commercial travellers The organisation of

her industry is being improved and the competition between her and the other countries for the Indian market is proving destructive to India Indian manufacturers are negligible, we have scarcely any *financiers*, our banks *depend on* English banks, we have no powerful trade organisation The Government is not giving us the assistance needed, and without such assistance no industry can be organised in India The Inland carrying agencies railways etc, the shipping, both inland and foreign are under foreigners in competition with *Indian* business Railways are built for import from and export to foreign countries Foreign goods can be conveyed cheaper to Indian markets than Indian made goods England and other countries are trying to exclude foreign goods that compete with home made goods We should have the same power to carry out that policy if necessary Without a vigilant Indian Parliament in full control of her finances and commerce not acting under the control of a Secretary of State pledged and bound to support England s interests and a reactionary Council who have opposed and who will strenuously oppose Indian aspirations India will continue down trodden and oppressed without manufacturers bankers, traders and trade organisations able to hold their own in the markets of the world

Economic weakness of India

92 England with all her resources and energy and large concerns controlling enormous capital finds difficulty in competing with America in her own Colonies and Dominions although their sympathies are towards her What chance has India got in this direction without control of her own destiny in finance and commerce It is said rightly or wrongly that Indian industries do not get while English industries do get capital cheaply because the banks are in English hands Our gold reserves are not held in India but in England really for the benefit of England and very much to the loss of India the efflux of gold to India would otherwise intensify the situation in England Compare this policy with that of England to prevent efflux of gold No reform in the Indian financial system is now possible without a popular Parliament and a free Indian Finance member untrammelled by the Council of the Secretary of State

Empire Free Trade risk to India

93 A powerful and growing party in England considers that for efficiency of production the British Empire must become a fiscal unit to compete with the mass production of the United States or of economically federated Europe Indian wage levels and her standards of living are far below those in England India is indirectly exercising pressure on the wages of the English workmen and already attempts are being made by representatives of English labour assisted for ulterior reasons by communists *to take steps which in the opinion of Indian* capitalists will ruin Indian industries. One party in England wants complete inter Empire Free Trade The Dominions are, of course able to and will take care of their own interests But

India without a popular Parliament controlling her own finance and industries untrammelled by the Secretary of State and his Council will not be able to take care of herself against an English Government which accepts that policy. Without India's adhesion inter-Empire Free Trade is impracticable but she cannot protest successfully against any step which would stand in the way of her own industrial development. England has practically reduced India to the position of a mere purveyor of agricultural produce for the industries of England. The Report of the recent Linlithgow Commission if not intended is certainly calculated to bring about that result. While fully desirous of co-operating with the English Government to foster her agriculture and increase her natural resources India wants to foster industries which can be developed in India. She would resist anything which may interfere with this policy. For this purpose she wants not only full control of her finances and industries but power to resist any economic or financial pressure that may be put on her. She also wants an Indian finance Member under Indian Parliamentary control. Then alone will our capital, our savings be used for our own national development and not for the benefit of other interests. We have already referred to England's attempt to raise Indian wage levels with a view not so much to benefit India as to approximate it to the English levels to benefit her own capitalists and workmen, but England wants if possible also to get rid of any tariff which might affect her but which India might require on account of her lack of industrial experience and her subordination to England. There is little doubt that England will force Imperial Preference on India and without Indian independence in finance and industry India will not be able to secure any fair return. India wants in these respects to make the best bargain not only with all the other countries but also with England. If Englishmen are in control they cannot be fairly expected to make any bargain with any foreign country on behalf of India which may interfere with their own commercial relation with that country and it would be unnatural to expect Englishmen to do anything required in Indian interests which may not be to the advantage of or may be injurious to England. If control is left in their hands we might expect a repetition of the story of the cotton duties.

Military expenditure in India.

94. That taxation and expenditure should be entirely under Indian control without any interference by the Secretary of State or the Parliament will also appear when we consider the Indian military expenditure. In connection with this matter there are two considerations to be borne in mind. There is no ray of hope for the reduction of the burden of the taxpayer in Great Britain except through disarmament. The Imperialist Party will therefore try to make good any deficiency in armaments by making India pay for them. The next great war, it is said, will be

fought in the East and the Pacific, the military burden of India, already heavy, will then be increased to an intolerable degree

Considerations determining the strength of the Army in India

95 It has been generally stated that the British element of the Army in India is treated by the War Office as part of their general reserve which would be available for Imperial purposes in an emergency Indeed some persons go so far as to state that the War Office are deliberately keeping this reserve in the East at the expense of the Indian taxpayer Attempts have been made in some quarters recently to controvert these statements and to maintain that the British element in the Army in India is calculated by the Government of India to meet its own requirements This however is in direct contradiction to what Lord Curzon stated deliberately in the following words —

> "I have seen it frequently stated, even by high authority, in the course of the present war that the Indian Army is raised trained and equipped for service in India alone or upon its frontiers, and that the call to external warfare was therefore both novel and disconcerting Such a claim would not only be indignantly repudiated by the Indian Army itself, but it finds no foundation in history During the past half century, the foreign campaigns in which that Army has been employed, greatly to its credit and glory, have extended from Egypt and even Ashanti on the West to China on the East, and have embraced most of the intervening countries Even before this war began it was the pride of the Indian Army that its British units saved Natal in the Boer War of 1899 1900, that it rescued the Legations at Peking in 1900, and that on its banners we ... in almost every pa ... d and has been pr ... tion of internal peace in India itself the defence of the Indian frontiers and preparedness to embark at a moment's notice for Imperial service in other parts of the globe In this third aspect India has for long been one of the most important units in the scheme of British Imperial Defence, providing the British Government with a striking force always ready, of admirable efficiency and assured valour"

If Lord Curzon was right, and he knew what he was talking about, *prima facie* the military budget must be cut down by about one third at once since we understand that one third of the Army is kept for the maintenance of internal security one third for the defence of the frontier, and one third as covering troops According to this opinion the budget should be reduced from forty millions to less than thirty millions At any rate, without an Indian Finance Member of the Government of India and without an elected popular chamber to uphold him India's claim in this respect cannot expect to receive adequate consideration

Utilisation of Indian Army by England during the war

96 Assuming for the sake of argument that part of India's Army did not form units in the British scheme of defence, as Lord Curzon put it it is plain enough that when India most needed her army, it was taken away elsewhere On the outbreak of war, troops trained at her expense were not retained in India for her own purposes, but were dispatched to France More than 500 officers of the Indian Army who were on leave in England

wer u d for th jurp c of training Briti h recruits not under Indian control an l it is stat l that from the beginning of the war until the end of 1916 over 2 600 Briti h officers were drawn from India for Imp rial purpo es apart from tho e who accompanied their units abroad I or all this India should have be n paid and would in all probability have been paid , at any rate her claims would h ve been pre sed if Fin nce had been a tran ferred subject for Finance Memb r an Indian and the Government of India independent of the S cretary of State It may be said that when Briti h troops were taken away territorial divis ons were sent to India But India was entitled to the service of troops recruited train d and kept by her If the territorials were sufficient the oth rs were unnecessary The real truth is that England wanted her troop trained at India expen e to be sent back to form re erves of the Home Army

Functions of the Indian Army Foreign Aggre si n

97 The foreign foes whom India has to fear are Afghanistan and Soviet Rus ia The menace of Afghani tan disappeared with the rise of the Sikhs That event how at any rate that British tro ps are unnece ary to ward off an attack from Afghanistan Th danger fr m Soviet Rus ia is due to British Imperialism That danger if real precludes disarmament in England To carry out disarmament in England and not only refuse it in India but to increase the armaments there would seem to justify the suspicion that it is the policy of Great Britain to carry out d sarmament not really in the interests of peace but only to assist the English taxpayer and transfer the burden of the increasing military expenditure t India A stronger argument for bringing the military bu lg t under Ind an control can scarcely be imagined

Internal Security Retention of British Troops

98 One third of the Army in India is said to be kept to preserve internal peace and tranquillity It is argued that for th s purpose i is necessary to maintain a certain number of British troops in India , and the larger part of the British garrison of some 60 000 men namely 28 out of the 45 battalions are allotted to internal security purposes It has been stated before us that it would not be right to ask Indian troops t shoot In ians in riots etc and that therefore British troops are and have been employed for that purpose As a matter of fact this is not borne out by recent occurrence The British troops were employed to carry out measures for the suppression of plague in Poona towards the end of the last century, and it is from that episode that the alienation of the Indians from the Government took its origin The British troops we feel certain, will no longer be employed for similar purposes

The next great event which required the use of troops was the di turb nces which followed Lord Curzon's partition of Bengal The Mu lims were on the s de of the Government upholding the partition the Hin lus who opposed the partition were supposed to be the offenders the troops employed were the Gurkhas and not the Briti h

In the Punjab riots also the troops employed were the Hindu Gurkhas

One more instance is furnished by the Moplah riots in Malabar The leaders there were both Muslims and Hindus One of the latter is still in prison in spite of the repeated protests of the Legislative Council On that occasion British troops were first employed , and for assisting the troops the Hindus were attacked by the Moplahs, who considered it an act of treachery to them selves The outbreak was finally quelled by Indian troops the Gurkhas and the Kachins who alone could follow the Moplahs into the hills That British troops are indispensable for quelling riots and Indian troops are not employed for the purpose is not thus a fact in fact it is now well recognised that it would be very impolitic to employ British troops , because greater resentment is felt against the Government on account of anything done by British troops and if one may judge from the practice in recent times it has become the fixed policy of the Indian Government to employ Indian troops alone wherever possible

99 Before the mutiny the troops were intended both for war and for maintaining internal peace , but when the mutiny was quelled the police force was created in order to keep the peace If it has not been entirely successful for the purpose for which it was created the fault lay with those who are responsible for the organisation of the force There is little doubt that in Indian hands the police will be a force quite efficient for the purpose for which it was formed and the troops may be dispensed with except for purposes for which they might be employed in England A vigilant Elected Chamber with an Indian Finance member acting under its control or an Indian Government free from influence of the Secretary of State would see to it that an efficient police force is organised and that troops are not kept to perform the duties which the police ought legitimately to perform The military budget would thus be cut down by the amount required for the troops which are now kept for police purposes The Police Force and Internal Security

100 We shall now deal with the troops that are kept to deal with the frontier tribes This service was performed according to all accounts not less efficiently than at present by the Punjab Frontier Irregular Force of about 12 000 men under the Government of Punjab No British troops were required The place of that force is now taken by the military at far greater expense , the military budget has swelled on that account by a large sum An Indian Finance Member under an elected Chamber would not have allowed this He would only have allowed the retention in India of British troops sufficient for the purpose for which they ought to be kept and even with regard to them he would have followed the policy of the East India Company that is, English troops would have been recruited for permanent service in India not to be sent back to England to form a reserve for England When the East India Company was able to recruit English soldiers for that purpose in days when mortality among Frontier Tribes

the troops was very much greater than it is now and life in India meant exile in a very unhealthy country, it should not be very difficult now for the Indian Government to get the troops which they want

Capitation Charges

101 For these reasons the Indian military budget requires the careful scrutiny of the Indian Legislative Assembly and of an Indian Finance Member But when we take into consideration the payments made in England, the case for Indian Home Rule becomes very much stronger Take the question of the capitation rate, i e, the cost of raising, training, equipping and transporting annual reliefs and drafts from England In 1907 the India Office, through their representatives, Sir J. Edge and Sir Beauchamp Duff, contended that the capitation rate ought to be abolished and resisted the claim of the War Office in respect of it An arbitrator decided against them The Government of India, however, continued to resist this claim up to 1928 when it was apparently decided that the questions involved should be submitted for the consideration of an independent tribunal The result may be anticipated in the absence of real Indian representation But here we only wish to emphasise the fact that for twenty years the Government of India have continued to pay large sums of money on this account, although denying all the time the validity of the claim advanced against India If the military budget had been subject to Indian control and if India had a Finance Member of her own choice or the Indian Government had their way, they would not have made these payments They would have insisted and obtained a decision of the questions involved One can hardly expect even now a just decision unless there is a vigilant scrutiny of the hostile claim which can be made only by Indians acting under the Assembly s control

Increased rate of Capitation

102 Not only had India to pay the capitation rate while the case was sub judice, while she was contesting the claim, the capitation rate was also increased from £7 10s per head to £11 8s, and she had to pay this money during the Great War, although at that time there was no transportation of the annual drafts and reliefs Surely it was not for India s use that troops were raised and trained during the war time nor was there any despatch of troops to India No real representative of India would have allowed this payment to be made Again in 1924 the rate of £11 8s per head was raised to £28 10s, with retrospective effect from 1st April 1920, and yet the Government in England are not satisfied There are also further claims amounting to more than £70,000 000 or £80,000 000 all arising out of the fact that India sent her troops to the assistance of England If she had not sent any, but retained her troops in India itself, nothing would have been payable to England

103 The entire claim against India is based on the generous and voluntary offer made by the Legislative Council which contains a good number of Government officials, that India would bear the cost of her own troops overseas It is on this

voluntary offer that England rests her claim for this huge contribution. It was only when an Indian Member of the Council of the Secretary of State pointed out to the Secretary for War that at the time India made a contribution of £100 000 000 to England there was an understanding that no further contribution would be asked for that the English Treasury refrained from enforcing payment and the English Cabinet agreed to leave for the present the outstanding war claims unsettled. The English Cabinet would not have come to this conclusion had the claim against them not been a strong one. This instance shows that the military budget should therefore be under Indian popular control if justice is to be done to India.

India's efforts during the War

104 Without any hesitation India sent her troops to fight Germany with whom as Lord Curzon said he had no quarrel. Indians were not fighting for their own country or people; they were not engaged in a quarrel of their own making. The climate was entirely different to what they were accustomed to; they had to face the severe northern winter. They had never before suffered heavy shell fire, had no experience of high explosives, had never seen warfare in the air, were ignorant of modern trench fighting and were exposed to all the latest and most scientific developments of the art of destruction. They were confronted with the most powerful and pitiless military machine the world had ever seen. They were rushed to the battlefield immediately while the Canadian troops and British territorials were dispatched to the scene of action only after further training of several months. Naturally from the very start they suffered shattering losses. It is in the above terms that Lord Curzon describes India's effort. Towards the close of the war Brigadier General Robinson says India was rationing about a million men besides making large shipments of foodstuffs to assist allied troops and civilians in the eastern Mediterranean. It was the wheat and rice which she badly needed by herself that she sent for the use of the allied troops and civilians. The English Government made a large profit out of this transaction as they received a far larger sum than what was paid to the Indian Ryot from whom the materials were purchased. When the Western Front was being barely held and the Eastern Front had collapsed the King Emperor, *thanking* [illegible] to her for further assistance [illegible] stirred India to her depth [illegible] [illegible] under the efforts already made. But while her soldiers were returning home they were [illegible] the death [illegible] their brethren in the Punjab. The echoes of the appeal were lost in that lament.

Change of attitude towards Indians since the War

105 We were told during the war that England was fighting for self determination, freedom for all and [illegible] foreign domination. Now we are told by men who seem to have gone to sleep during the War and woke up only recently that we are unfit to manage local self governing institutions, that we are not

fit to man our own services At the beginning of the war we were armed with new [illegible] at Marseilles and thrown into Hell Fire, [illegible] for further training [illegible] Indian troops had saved civilisation. Now it has been discovered that we are unfit to fight and were unfit to fight when pushed forward to meet the German soldiers of 1915 16, that we have no military aptitude and are therefore unfit even to receive any military training

Those who possess such a mentality cannot safely be placed in charge of India's destiny We consider their allegations a strong ground for conferring Dominion status on India.

Danger of a Naval burden

106 There is little doubt from the repeated attempts being made by the Admiralty that India will soon be called upon to pay her contribution for the Navy Without Dominion status she will not be able to maintain the position taken up by Lord Morley who refused any contribution on the ground of the heavy military charges of India her contributions to Imperial Defence as a whole being fully proportionate to her resources, to her interests and to the advantages she derives as a member of the Empire For these reasons he refused to submit the question to arbitration The Admiralty have again twice returned to the charge This is an additional argument for Dominion status, or at least for the military budget being in Indian hands Otherwise it would be practically impossible to save India from additional heavy burdens

Difficulty of disarmament in England while the present policy is pursued in India

107 There can scarcely be any real disarmament by England as long as India feels herself under bondage as long as the Government of India consider that India must be governed by the sword and the Cabinet in England feel or are led by persons who feel that so far as India is concerned England is sitting on a volcano England recruits and trains soldiers at India's expense , she keeps them in India at India's expense to be utilised anywhere when needed , they are brought back as Home reserves There can be no real disarmament if this continues In Geneva the Prime Minister and the Foreign Secretary speak of the total renunciation of war for settling disputes between nations, but in India their lieutenants threaten to settle internal trouble if necessary by the use of the latest instruments of destruction We doubt whether a propagation of the peace spirit is possible as long as England's voice, spirit and action are different in Europe from those in India To ensure unity of spirit it seems essential that the policy of the Government of India should be under Indian guidance and the military budget under Indian control

Alternative suggestions for dealing with Indian military budget, rejected

108 It is said that instead of placing the military budget under Indian control, a certain fixed amount, say 45 or 50 crores, may be made non votable by the Legislative Assembly and that only the excess over this amount may be submitted to the vote of the Assembly The control of the Assembly can however,

be easily evaded by including the less defensible items in the non-votable list and only those items of expenditure which no responsible Chamber would reject in the votable list. The only way to defeat this would be by subjecting the whole budget votable and non-votable to careful scrutiny, or in other words bringing the entire budget under the Indian control. Moreover, the right of the Assembly to deal with the military budget must be co-extensive with the duty and responsibility of maintaining an adequate efficient force. We are therefore unable to accept this proposal.

109. But we recognise that Dominion status cannot be granted to India while the army is not under her control. It may not be right to ask England to place British troops under our control in order to carry on a Government which may not be in consonance with English ideas or standards. It such be the case, and if England is so inclined, she can take the frontiers of India on the north-west and north-east under her own protection and allow Dominion status to India. But we do not demand this; it must be done by England unasked and of her own free will, if she finds that the conditions are favourable for such a step being taken.

110. Assuming however, that England is not inclined to take such a step and that we are not to get Dominion status until we have an army of our own, the question is what constitutional changes are indispensable at the present day. We are of opinion that all questions relating to Finance, including the military budget, industry and commerce must be in the hands of Indian Members acting under an Elected Chamber otherwise India will continue in the same miserable position in which she is at present, all her resources exploited, her finances used for purposes not necessary for her or not in the interests of her progress and industrial development with the necessary result of alienation of India from England and all its consequences. It is possible that if *full* provincial autonomy is granted and all the funds collected in a province are left to it with only an obligation to pay to the Central Government the funds that are needed for that Government, as may be settled by an impartial body, the tension may not be so acute and the Provincial field might be sufficient to absorb the energies of local politicians. The Local Governments may then be able to carry on the nation building departments and indirectly act as a check on the military extravagance and other uncontrolled expenditure of the Central Government by requiring some proof of the necessity of the contribution which they may be asked to pay. The constitution and the powers of the Central Government will thus depend mainly upon the constitution of the Provincial Governments. There is no doubt, however, that there should be an immediate move in the direction of responsibility in the Centre. The Committee have recommended that all the depart-

Suggested changes in the Government of India

ments except Defence and Foreign and Political relations should be transferred We are, however, convinced that the military budget should be under the control of the Legislative Assembly In this respect the Committee's recommendations should not be accepted

Proposal to entrust the task of framing a constitution for the Central Government to the Legislative Assembly or a Special Committee

111 At this stage we should like to make one suggestion Taking into consideration the complexities of the problem of the Central Government we are of opinion that before any radical changes are introduced the whole question should be fully thrashed out with the co operation of all important political parties in India On general grounds it is desirable that the Indian people themselves should be given the largest possible share in the task of determining their own future constitution For this purpose the Provincial Legislatures may be empowered to elect a certain number of members to the Legislative Assembly chosen from the ranks of members of the Executive Council either Provincial or the Viceroy's ex Ministers and ex Presidents of Provincial Councils or a Committee of experts consisting of leaders of parties in the Assembly and ex Members of the Executive Councils of the Governor General and the Provincial Governors and certain officials with an English politician as President may be appointed and the Assembly strengthened as proposed above or the Committee of experts just referred to may be asked to draft a constitution for the Central Government and Legislature Every proposal would be fully considered from every point of view and meantime the new Provincial Councils which it is assumed will be set up as a result of the recommendations of the Statutory Commission will have got to work and the powers entrusted to them and the manner in which these powers are exercised in the provinces will undoubtedly have reaction on the discussions about the Central Government There are other arguments besides the one alluded to which may be advanced in support of the proposal to entrust to the Legislative Assembly (or to the proposed Committee) the task of framing its constitution

Further reasons for the above proposal

112 In considering the problem of the Provincial constitutions we have had save in the case of the Central Provinces the co operation of the Provincial Councils and a large volume of evidence both oral and written has been placed before us As regards the Central Government not only no non official witness has been examined but the work of the joint conference has proceeded in the face of the active opposition of the Assembly The Central Committee [illegible]

is therefore [illegible] element of [illegible]
to
me

[illegible] or reform introduced

into the Central Government should be carefully considered and based upon adequate information, not only as to what has taken place in the past, but as to the probable consequences of any constitutional changes that may be introduced We think, therefore, that the proposal we have made should be given effect to in preference to a king the Central Committee or the Statutory Commission to solve the problem of the future constitution of the Central Government If, however, the Government do not see their way to accept our proposal for a fresh Committee or for the re constitution of the Assembly by the addition of experts as suggested by us, we accept the recommendations of the Central Committee with the modification above stated

IX

The Army

Paras 116 and 137 of the Reports of the Committee

113 As to the free admission of Indians into the army as officers, there has been considerable controversy Viceroys have pleaded for Indians, the Civil Service have advocated their cause , but practically to no effect A Committee was recently appointed with the Chief of the staff in India as President, and Indian public men and Indian officers of the Army as members to inquire into the *question The main recommendation of the* Committee for the establishment of a Military College in India, has not been carried out On the one hand it is said that a college will be opened only when the Military College at Sand hurst can no longer accommodate Indian cadets , and on the other hand conditions have been prescribed for the admission of Indians which make it practically certain that very few Indians will come to Sandhurst , the age prescribed being such that no prudent Indian will send his son to England at that age **Indians and the Army.**

We may take it then that so far as the army is concerned the English Government is not going to do anything substantial for Indians The Committee have decided that in the provinces of Madras and of Bombay local armies may be raised partly to allow of the free admission of Indians into the army and partly for other reasons Before going into the larger question we shall therefore deal with this question of the local armies

114 The grant of complete responsible Government is bound up with the question of the maintenance of law and order and internal security generally Experience has proved that civil disorders frequently arise which are too serious to be dealt with by the ordinary police force At present the civil authorities have the right subject to certain limitations, to call upon the military to aid the civil power It is uncertain whether this right either will or should be conceded to an autonomous Pro vincial Government It is obvious that the use of regular troops **Case for the establishment of Provincial Armies**

may provoke the gravest consequences It was the employment of soldiers to carry out the plague preventive measures at Poona the employment of troops to put down the agitation arising out of the Bengal partition, the employment of troops at Amritsar and latterly in 1924 to quell the Akali disturbances that largely contributed to the present undesirable situation in India In Madras we had recently the employment of the troops in Malabar which completely alienated the Muslims of that part of the country from the Government It is desirable, therefore that we should dispense with the use of Imperial troops altogether A provincial army and militia will relieve the Imperial army of the necessity of providing troops for the maintenance of peace in the Province It is often objected to the transfer of law and order that the British Government cannot allow their troops to be used in the enforcement of a policy with which they do not agree and which may be opposed to their views No such argument can be raised after the constitution of a provincial army In fact the only objection taken by some Englishmen to the transfer of law and order in the Madras province is that the Ministry might dispense with the Malabar Special Police which they say is really no police but military Far from that fear being well founded we believe that the Ministry will demand not only this special police force but an army and militia Moreover a local army will provide a training ground for the youth of the Country and the claims of the Mahrattas and the other classes to enter the Imperial army can be satisfied by this provision The British Government and the British Indian administration have perhaps unintentionally emasculated the Indians by depriving them of the military training Thousands of men, especially the poorer classes have been thrown out of work by refusal to admit them into the army There is little doubt that the people of the Presidencies would welcome the proposal for Provincial Armies

In Madras Demand of the Depressed Classes,

115 The memorandum submitted by the Depressed Classes of the Madras Presidency says that they want—

"*Representation in the Services*"

"(a) *Military*—50 per cent of the officers and the majority of the men in each unit of the army should be recruited from the Depressed Classes",

"(b) *Navy*—do"

The First Provincial Conference of the Depressed Classes passed this resolution —"This Conference requests the Government of India that recruitment for the rank and file of the army, navy and air forces should be made mainly from the Depressed Classes"

The Adi Dravidas of Southern Indian Districts maintain that it is their race that helped to bring the south under the British Government They refer to the "noble deed of the Pariahs

who contented themselves with *kanji* water, giving away the rice to the Britisher in the siege of Arcot," and point out that "the southern Indian blood that has been shed on the frontiers of Europe and the East in the war for civilisation has been their blood"

116 The North Arcot District Dravidian Association and non Brahmin Caste Hindu Association point out that in the late German war it was their kith and kin that shed their life blood in the cause of the country on the battlefields of France and Belgium They also say that "so far as this Presidency is concerned there were about fifty regiments of Indians including Pioneers, Infantry and Lancers and that number is now reduced to about two Pioneer regiments As we have already indicated, this is a martial district and it stands second or third in its contribution to the fighting strength The Government by the reduction of the army has made the South less martial The reduction of the army has led to widespread unemployment Those who were quite capable of serving in the army had to go to South Africa, Ceylon, etc, in search of employment The Indian portion of the army should be maintained in its original strength There must be compulsory military training for students in the colleges The reduction of the Indian army and the absence of compulsory military training among students have made the people unfit to defend their own country Army and Navy are shut out to the educated Indians and this has led to the growth of unemployment among the educated" Of other communities

There are other memorialists who complain of their exclusion from the army We need not refer to the caste Hindus like the Velmas and the Reddies in the Telugu districts the Vellalas Maravans Gowndans etc in the Tamil districts and others who have shown themselves always willing and anxious for enlistment in the army A local army and a local militia will satisfy their ambition and in some degree mitigate the growing discontent due to the exclusion of the Hindus from the army which can only be justified on the grounds that the British Government has no trust in them an argument of which the consequences are bound to be deplorable

117 The case of Bombay is perhaps stronger The country was independent when it passed under British Rule The Mahrattas had won their independence after a glorious struggle The following are some of the statements in the memorials presented to us The All India Mahratta League state as follows — In Bombay: Demand of the Mahrattas

> "We belong to a martial race Our ancestors were at one time the masters of this country Some British Historians admit that they did not receive or conquer India from the Moghuls but from the Mahrattas Our people have fought on almost every front during the Great War The greater part of the Indian army is recruited from our community The British people need not question our

loyalty We have served the Empire in every field to the best of our ability and borne the brunt during the war times more than many communities put together We are a separate social unit We are a martial people We would like to preserve our identity We would like to work out our destiny together We request the British public to preserve and nourish this unity "

" The Mahratta recruits should form a substantial part of the Indian Army and our Mahratta boys should have Mahratta officers in proportion to their strength "

The Mahrattas manifesto runs as follows —

" Before the annexation the Mahrattas were rulers of the Maharashtra The Marathas have done more than any other community to accelerate the progress and prosperity of India The Marathas owned a very large share of the land of the Bombay Presidency and the Central Provinces and pay more than three fourths of the total land revenue of the State The record of their military service is unparalleled in the History of India and Europe during the big International War

As the Marathas were the rulers and Masters of the Sea during the Maratha period we urge the British Government to recruit men from Maratha and allied castes and offer them the Commissioned rank with equal treatment of the British soldier

Of the Depressed Classes

118 Equally emphatic is the claim of the Depressed Classes

From the days when our Presidency passed from under the umbrella of the Peshwa to the shelter of the Union Jack the Depressed Classes have always found scope for their martial spirit in the ranks of the British Indian regiments both in the fighting line and in subsidiary occupations connected with regimental needs and requirements In the Great War the testimony is unanimous in regard to our proved worth and merit

" None dares deny the fact that even the most tyrannical and Brahmanical Peshwas were unquestioned enthusiasts in preserving and encouraging the martial spirit of the Mahars whose regiments served the Mahratta Empire no less patriotically than what the Tommies do for their Fatherland —England The hereditary military services not only enhanced the civic value of our race and furnished life with unique promises for generations together but simultaneously did they raise the standard of our culture and polished habits to make our forefathers quite easily overlook the petty handicaps of socio religious prejudices In the British regime we have been systematically deprived of all these avenues of ambitious careers leaving the Mahars and other untouchables without any scope to make their life worth living Instead of getting an uplift we are daily being pushed down in all walks of life though the diplomatic Ref

Tape Trumpets of Government are louder than before in blasting the sonorous gospel of Equal Treatment and just political advancement "

" But the diplomacy of the present British Statesmen far differs from that of their predecessors Finding India now securely in their political grip they are fast elbowing into corners those who once they counted and worshipped as their ' friends in need ' The Government kept survived one III *Mahar Regiment*, perhaps as a fabric of ancient monument, till 1922, when under some pretence or the other, they got it perpetually disbanded, and now there is not a single Mahar regiment in existence This action amounts to nothing less than a deliberate attempt to annihilate the martial spirit of the Mahars by reducing them to nonentity as other non martial races of India Thus the *grateful* British Government have deprived the Mahars of the only avenue whereby they hoped to raise up their status as some useful units of the Citizens of the British Empire "

" To pull down the Shanwar Palace—the last strong citadel of Brahmanical Hierarchy in the Deccan, the British Government, finding all the Tommy regiments entirely use less and helpless called on the Mahar regiments to do the needful To be true to the salt Mahars loyally got what the Tommies could not In almost all military operations in the Deccan the Mahar regiments formed the backbone of British military enterprises Now, however the British Government is fast enrolling candidates from the *Brahmins* and other *non military* touchables for training in Sandhurst Military College not straining their precious memory for a moment to remember what claims the Mahars hold for improved military training The present policy of recruit ment for Sandhurst is a bold negation in itself of what the Mahars did for the British Empire Do the Government think that such an ungrateful action of theirs shall under mine the solid loyalty which the untouchables in general have so long maintained without any grudge ? That the Government should be so much afraid of ' *putting* a severe strain on the loyalty ' of the Mahommedans and also of the Sikhs in the Punjab and definitely throw a wet blanket on the aspirations of their *once brave friends* the Mahars is certainly a very tragical phenomenon of British Diplo macy correctly showing us which way the wind blows Are we not as *distinct and important a people with gallant and valuable element to the Indian Army* ' as are the Sikhs in the Punjab ? Are we not also as *conspicuously loyal* ' as the Muhammadans ? But nay The present policy of the Government refuses us the benefits of Sandhurst Training College Why ? The Commission should please investigate, if they choose We only point out where the shoe is pinch ing us

Establishment of a Military College in India

119 For the creation of local armies as for other reasons repeatedly urged by Indians Military Colleges in India are necessary There cannot possibly be any objection to a Military College being established by the Government of India or by the Local Governments It may be established in localities which are not ordinary recruiting grounds Bombay and Madras Presidencies are not ordinary recruiting grounds now, and therefore the establishment of a College there cannot in any way interfere with recruitment Our proposal will not therefore affect the supply of students for the existing military college The college should be entirely under Indian control Its finances should not be included in the ordinary military budget It is an essential condition for success that the officers must be chosen by Indians These men will train the students The objections put forward to this scheme are not substantial It is said that pupils will not be forthcoming This objection is due either to ignorance or unrelenting opposition to a Military College Further where is the harm? The only result can be the failure of the experiment

Objections to Local Armies examined.

120 The objections to the creation of local armies appear to be based on the assumption that these armies or troops will form a portion of the Imperial army They will not and therefore there is nothing in the objection that it would be unfair to confine the good stations or cantonments in comfortable conditions to one set of troops The objection arising from the difference in the efficiency of these provincial and purely Indian troops and the Field Army also would not apply For it is not suggested that the provincial army or the new army would be equal to the Indian Army It is altogether a different army and would not interfere with or affect the efficiency of the Indian Army either in numbers or equipment

If the troops of the Local Army are good enough to relieve the ordinary troops it would be a great gain to the Indian Army If they are not the Indian Army does not suffer in any way and there is no change in the condition of things There is no difficulty caused on account of their presumed bias in any trouble or riot Such difficulty has not hitherto been felt in the case of the military police and it will not be felt when the officers are Indians

Present and potential advantages of Local Armies

121 On the face of them these objections are not substantial Now consider the great advantages The creation of Local Armies would relieve the British Government from the charge of bad faith it would allow the experiment as formulated by Sir Andrew Skeen to be made under favourable conditions, it would allow of wholly Indianised units of every arm units of cavalry, infantry artillery engineers and ancillaries concentrated in wholly Indian formations who may be given some block of the frontier to look after as covering troops When the time comes another portion of the frontier may be given and the Indian garrison expanded When they had got the whole of the covering

troops are in their command or even before Field Army Divisions may be Indianised with areas behind providing resting places until India is completely in charge of its own defence on the North West Frontier. The Commanding officers of all units should be Indians. The Brigadier as well as the Divisional General should also be Indians. It is essential for this purpose that the military officers in charge of the Military College should have nothing to do with the Indian Army or with the Indian Military Authorities. It should be for them to decide when their pupils may be placed in command of the troops or to be dispatched for work on the frontier. The function of the Commander in Chief should be to select the area on the North West Frontier for them to look after. Precaution of course will be taken to see that any reverse sustained will not have far reaching results. We feel satisfied that they will do as well as any body *of ordinary troops with similar training and conditions*.

Plea for carrying out recommendations of the Skeen Committee

122. As to the general policy we would strongly urge that the proposals of the Skeen Committee should be carried out. This is essential, otherwise the Government cannot meet the charge of bad faith. Efforts have been directed to show that the Skeen Report has not been substantially departed from, but that all its main provisions are being carried out, that the Indians will not be prejudiced by the steps which the Government are now taking. All this, even if true, is no answer to the argument that it has been departed from in matters to which the Indians attach the greatest importance, the recommendations in reference to those matters having the unanimous support of the Skeen Committee. On the other hand, taken with the powerful opposition which has existed *for years, the conclusion that can be fairly drawn* is that the Skeen Committee Report was not given effect to in order to throw as many obstacles as possible in the way of Indians.

X

The Punjab

Paras 73-74 of the Report of the Committee

Sikh Representation in the Legislative Council

123. In considering the nature of the constitution suited to the Punjab we have to observe that in our opinion there should be no separate electorates or reservation of seats in Joint Electorates for Hindus and Muslims, but the Committee while recommending the abolition of separate electorates have allowed reservation of seats for Hindus and Sikhs who form minorities in the Province of Punjab. So far as the Legislative Council is concerned we are of opinion that the Sikhs deserve special consideration and should receive representation according to their voting strength which would give them about 24 per cent of the seats though they have claimed 30 per cent, or on the population basis whichever is more favourable to them without prejudice to their rights to contest more seats. Our reasons are that

the Sikhs have in national interests suggested the abolition of communal representation They contributed mainly to put down the mutiny of 1857. Both in men and money their contributions were greater than those of any other class and beyond their means in all the wars including the Great War They pay about 40 per cent of the Land Revenue and land cess

Communal representation in the Cabinet

124 With regard to the Executive, should the Government not ... the Punjab, we ... order to avoid ... th the Local Government that there should be representation of all the three communities in the Executive Government In other words there should be one Hindu, one Muhammadan and one Sikh Minister No doubt it will be said that this is an attempt to stereotype communalism even in the cabinet But it is indispensable in the present conditions, all parties want it It has been suggested that the Governor should select the Chief Minister who has the largest following, and the latter should submit the names of colleagues who would represent the other communities But we would prefer that the Governor should appoint each Minister separately Representation of all the communities is necessary in the Punjab to secure a Government ... quality of treatment for all ... ued by leaving the nominatio ... Chief Minister The Governor should appoint Ministers from the elected members of the Legislative Council We would leave it to his discretion to appoint another member who should be neither a Hindu nor a Muhammadan He may be a Sikh or a Christian or an official who would be appointed for his special qualifications and not on account of any communal considerations It would be open to the Governor to assign the administration of the Magisterial and Police Departments to the official or other member not being a Hindu or a Mahommedan The official member s ... ll be subject to the same restrictions as that of any other member of the Cabinet It has been suggested that the Police should be an entirely transferred subject as the Police administration under a responsible Minister would come in for less criticism than it is at present subjected to It is also said that there is no serious difficulty in calling in the military when necessary, by a Government in which Law and Order is transferred We cannot agree with this view, as it does not meet the objections arising from ... reover, the suggestion is based on ... us that the Chief Minister should ... ministers We agree with the local Government that we cannot retain Law, Order and Police as a reserved subject under the Governor, transferring all the other subjects Such reservation will render the Council hostile to the Government as a whole, will necessitate the budget for this department

An additional member

Law and Order not to be a reserved subject

being made non votable by the Legislature, and will make the Governor the subject of debates in the Council Interactions between the various departments make it difficult, if not impossible, to make Law, Order and Police a water tight compartment All provincial subjects should therefore be administered by the Cabinet subject to the vote of the Legislature The allotment of subjects other than Law, Order and Police to members should be determined by the Cabinet The non official members should hold office ordinarily during the term of the Council, and should not be removable by the Legislature except by a two thirds majority vote Even then they should have the right to *ask the Governor for a dissolution of the Council* But the Governor should be allowed to demand the resignation of any member This would enable him to enforce unity and joint responsibility and to carry out his own views when supported only by some and opposed by others The Cabinet should stand or fall together, except in the case of dismissal of a member by the Governor There should be joint responsibility to the Council, so that Ministers may have a common policy There can, therefore, be no vote of no confidence against a single Minister They should be replaced as a body by a new ministry when dismissed by the Council

125 It may be objected that there can be no joint responsibility unless it is left to a chief minister to nominate his colleagues, and in particular that the three communal representatives may be opposed to one another It is to ensure co operation that the power is given to the Governor to dismiss in the last resort a recalcitrant member while the appointment by the Governor of the Ministers may secure the growth of the party system This scheme gets rid of dyarchy and constitutes a great advance towards a system of responsible government over the whole field of administration Questions no doubt will frequently arise in this province in regard to which the Governor may differ from Ministers as a body He may feel satisfied that his interference is necessary though the Ministers and the legislature may consider the other way In such a case if the matter is sufficiently important he may dissolve the Council If a fresh election results in a victory for the Council and the Ministers, and if the Governor considers that the issue is so vital that he must fight them—a very unlikely contingency—he may take over the whole administration The scheme ensures, therefore, popular control when the members of all the communities work together but not otherwise but the Governor is competent to act independently if the issue is considered by him to be vital If the majority of the Cabinet do not agree with a decision of the Council on any issue they are not bound to act upon it unless they find two thirds of the Council against them The establishment of a system of joint responsibility resulting in joint resignation of all would be ample protection against any capricious or communal vote of the Legislative Council The Governor will

The scheme analysed

try to secure Ministers who will agree to act together and also in accordance with the will of the majority The withdrawal of the official bloc will constrain Ministers to act together On the whole for Punjab this is the best system that occurs to us Our colleague Raja Nawab Ali Khan is of opinion that to get rid of communal representation we should introduce adult suffrage here as elsewhere in India

XI

The Franchise

Paras 59 and 60 of the Report of the Committee

Adult suffrage recommended for Bengal

126 The Committee have recommended generally that the electorate should be doubled at once, and the Legislative Councils empowered to modify the franchise after a few years They also recommend that one third of the adult population should be compulsorily enfranchised at the end of every ten years subject to what the Councils may have done before We think that at least in the Province of Bengal in order to ease the Hindu Muslim tension adult suffrage should be allowed

Arguments in favour of adult suffrage

127 It would seem difficult if not *impossible to do justice* to the claims of Muslims women and the depressed classes without universal suffrage The depressed classes are in favour of adult suffrage and the evidence before us shows that there is a general feeling throughout India *in favour of* adult suffrage *Prima facie* there are strong reasons *for* adult suffrage One reason for adult suffrage is the necessity *of the representation* of various communities to protect themselves against *others* who are represented in the Councils Thus *the tenants* require representation to protect their interests against *the landlords* who are effectively represented in the Councils *Industrial* labourers require representation to protect themselves *against* manufacturers and capitalists who are also specially favoured Depressed Classes have to protect themselves against the *orthodox* Hindus Muslims say that as they are backward *in education* material prosperity and organisation they want *protection* against the Hindus Women want it for purposes which *need* not be elaborated to an English Parliament

Ditto

128 The right to vote is a natural right in the same sense as the right of self *defence* The Legislature may pass laws affecting the security of perso... is only right that a man should ... nst what he conceives to be a ... or an *attempt to* interefere with *his personal* liberty To prevent such laws *from* being passed is *only* to exercise his right of *self defence*, and he can prevent such laws from being passed *only* if he is allowed *to* vote for a representative who would defend his interests To say *therefore* that he should not be a voter is in one respect, *telling* him that he is not to be allowed to protect himself *against*

any attempt to violate his rights of person or property It is idle to say that any community is efficiently protected by other communities This argument is always used by the privileged classes against those who claim protection against them The former would always maintain that there is practical difficulty in giving representation to the latter and that the time has not come for widening the general franchise

129 In our opinion universal franchise will go far to create a stable Government In India during the last seven or eight years there is no class that has stood behind the Government The great landlords failed to support the Government during the days of non co operation and the Khilafat agitation The commercial classes went further and supported those movements It is only the lowest classes who being desirous of getting rid of the old oppressive laws under which they suffer need the support of the Government The political consciousness of the lowest classes has been roused within the last few years The Government know it to their cost that these men in the absence of any other guidance follow the leaders of the non co operation movement or communist leaders If they are allowed adequate representation in the Council by adult suffrage they would not do so but would fight their battles in the Council There is little doubt that increasing numbers would come to vote and the vote itself would be an education to them If denied the franchise or adequate representation it is possible that they might take the law into their own hand as they have already done in some places by strikes against capitalism and by refusing to pay taxes to the Government and by burning forest Any thing less than adult franchise is useless as in that case these classes will be influenced or terrorised and they will not be free voters Arguments in favour of adult suffrage

130 On the 19th March 1928 the Legislative Council of Madras declared itself in favour of adult suffrage The reasons given by the various speakers in favour of the proposal were — Ditto

(i) A high franchise gives the wealthy classes an advantage The other classes though they form the majority of the population have fewer votes

(ii) Illiteracy of the masses can be removed only after the masses get political power

(iii) Exercise of the vote is a source of education to the masses

(iv) Elections will be purer with adult suffrage than they are now as in the former case voters would be too numerous to be approached by corrupt means

(v) The illiteracy of the masses is not an obstacle to political progress There are many illiterate voters now exercising the franchise Methods can be devised for the polling of their votes as is done now

(vi) Illiteracy is not necessarily accompanied by a lack of good sense. On the other hand the illiterate masses of India have an inherited culture which would enable them to exercise their voting power intelligently.

(vii) A stake in the country is possessed not only by people who own wealth but also by those who make it. There are many who make wealth without being able to keep it sufficiently to possess the present property qualifications. Such men should not be deprived of the vote.

(viii) The Depressed Classes who now come to the Council through nomination will have a stronger position in the Council when they come through election as they would be able to do under a system of adult suffrage.

Arguments against

131. Only one member opposed the motion. His arguments were :—

(i) Candidates put up by minority communities will be swept away by the large masses of the majority communities.

(ii) If voters are illiterate they have to vote openly by telling the polling officer the name of the candidate they favour. This will mean that men of wealth and influence can compel the illiterate voter to vote for themselves.

To these the following arguments are added by the Local Government.

(iii) The machinery for carrying out elections will be strained to breaking point if all adults in this country with a population of about 300 million are given the vote. This difficulty is all the greater in view of the necessarily clumsy way in which alone the vote [illegible] illiterate voters can be recorded.

(iv) It is risky to give political power to large masses of illiterate men who are not in touch with current events and cannot therefore exercise their judgment [illegible] in selecting representatives to deal with current [illegible].

The above arguments considered

132. The third argument will be dealt with later. The first argument is scarcely of any weight since this is not [illegible] of minority communities. The second argument comes [illegible] is the illiterate voter in every province now votes by openly [illegible] the polling officer in the presence of the rival candidates or their agents the name of the candidate for whom he votes and no complaint has been made against this system. On the other hand universal franchise will minimise the influence of wealth. Again assuming the wealthy man gets the vote it only means that the situation is unchanged. The fourth is the real reason, and it is advanced by men of wealth and influence. But it is futile to say that an agricultural ryot cannot discriminate between those who will support his claims and satisfy his wants and others. The same applies to labour as it certainly knows who will advance its claims to a living wage etc. The Hill Tribes know what their rights are and who will protect them.

and women know those who will support their claims In fact, we cannot imagine that any of these classes would not be able to discriminate between the candidates who seek their votes Moreover, what is the sort of education that matters? Is it book learning or is it the kind of political education which these classes are always receiving now through the vernacular news papers and through the speeches of the politicians who move about the country? Even in Assam a comparatively backward Province the Provincial Committee recommends adult suffrage

133 Another objection to adult suffrage on the merits that we have heard advanced is that under adult suffrage the Muslim is placed at a [illegible] reluctance of Muslim ladies to c[illegible] But for this purpose special facil[illegible]s appointed officers at the polling stations The disadvantages due to purdah are common to both the Hindus and the Muslims Moreover such a custom should not be allowed to stand in the way of progress even of those who adhere to that custom much less of those who do not observe it Adult suffrage would be the best means of emancipating women The women irrespective of their religious, will combine to advance their interests and the interests of their children

Another objection considered

134 Assuming however that it is impracticable now to introduce adult suffrage throughout India in Bengal it has become necessary to do so as early as possible, on account of the acute tension between Hindus and Mahomedans The population of Bengal is 46 million out of which Muslims number 25 million and Hindus 20 million The number of voters is only 4 8 per cent of the total population The distribution of seats between Mahomedans and non Mahomedans in the general constituencies is based on the agreement arrived at by both parties in 1916 at the joint session of the Indian National Congress and the All India Muslim League viz that 40 per cent of the *total elected Indian members* should be Mahomedans This agreement is now discarded by all parties Actually the elected Mahomedan members number 39 and the elected Hindu members 57 so that the percentage of the former is slightly over 40 per cent The number of Muslim voters in 1926 was 529 995 while the number of Hindu voters was 623 217 the percentage of Hindu voters was 54 the Muslim voters about 46 per cent The Muslims form about 54 per cent of the total population of Bengal Some members of the Bengal Government propose to lower the franchise in rural areas to increase the Mahomedan voters to more than 11?1 000 and the non Mahomedan voters from about 540 000 to 900 000 It is not right to *lower* the franchise qualification in *particular areas* to bring about an equality It may be lowered for other reasons The proposal for lowering the franchise is supported by the Muslim Members of the Council and opposed by the

The question considered with reference to Bengal

Hindu members on communal grounds. As will be pointed out adult suffrage and joint electorates are the right solution of the problem.

The need for adult suffrage

135. In Bengal the adult male population of about 12½ million have more than 1,100,000 voters, while with the same qualifications the adult female population of over 11,000,000 have only 36,906 voters. The women of Bengal observe Purdah and it is essential therefore that special facilities should be given to them to protect themselves. Give votes to them and all women will be emancipated. It is said that Purdah women will only act under male direction. A recent instance is interesting. The lady members of the Anjuman Khawateen-i-Islam, an association whose object is the emancipation of women, were forbidden by their husbands to go to a meeting to assist the sufferers from the recent floods in Sind. The command was ignored and the husbands subsequently capitulated. When it is a question of determined wives getting their own way, East meets West, says Truth.

Public opinion in Bengal re adult suffrage

136. That in Bengal there is a widespread desire among the lower classes for adult suffrage or male suffrage seems clear. The memorial that puts forward the case of the workers most elaborately is that of the Kachrapara Railway Workmen's Union (Registered under the Trade Unions Act). They say, "nothing short of adult suffrage would really enfranchise the working classes, but unfortunately their illiteracy and hopeless economic position and indebtedness as well as their subjection to the landlords in their village homes and employers in towns and in the country will not afford them a fair chance to exercise their franchise freely in their own interest." We have dealt with the question of illiteracy. Their economic condition is a reason for giving them the franchise.

The All Bengal Namasudra Association claims that it is high time now that every adult male member of the community should be given the right of franchise without any restriction whatsoever, though they say that it will serve no practical purpose for years to come to invest the women of this country with the right of franchise. They number 2.1 million out of the twelve million in Bengal. The Mahishyas, an old dominant caste numbering 2,500,000 want universal franchise for men. The Bengal Depressed Classes Association, which claims to represent 11½ million of depressed classes, says that every adult male should be given the right to vote. The memorandum on behalf of the Gopalgunj Namasudra Association, the Gopalgunj Janasangha, the Depressed Classes and the ryots of Bengal says that every sane person above 21 should have a vote. The memorandum submitted to the Indian Statutory Commission by the Bengal Agriculturists and Tenants Association in accordance with the resolution passed by the conference of agriculturists and tenants held at Baruipur claims that every adult of either sex

should be entitled to vote in union boards municipal boards and district boards and that in the case of the Provincial Legislature every ratepayer should be a voter The Indian Congress Committee have asked for adult suffrage, and many of the leaders of Muslim opinion in Bengal say, we believe rightly that adult suffrage will solve the Hindu and Muhammedan problem

137 We must acknowledge that the weight of the official opinion is that adult suffrage is impracticable in the present conditions of Bengal This of course is always the official view But we are unable to get over the argument in favour of adult suffrage that any test that may be prescribed must give undue advantage to some who as conditions go would use their power to the injury of those excluded In Bengal with adult suffrage the Hindu Muslim question is likely to be solved women will be emancipated and the lower classes will be able to protect themselves We accordingly recommend the immediate introduction of adult suffrage in Bengal It should not be assumed that we underrate the difficulties The difficulty of framing the electoral roll of appointing polling officers and detecting personation are undoubtedly great But considering the benefits of the scheme the difficulties have to be faced the fact that this universal suffrage affords a solution to the Hindu Muhammedan question is in itself decisive in its favour The Muslims seem to be generally in favour of it and we doubt whether the claims of women of the Depressed Classes and the tenants and ryots can be adequately met except by adult franchise We may perhaps restrict the franchise to men over 25 or 30 Our conclusion

XII

THE SERVICES

Paras 110 115 of the Report of the Committee

138 The Madras Government says — Responsible self government if it implies anything implies that the province must be free to recruit its own servants as and where it likes There can be no imposing upon it a body of men recruited under regulations from sources and on rates of pay prescribed by some outside authority The All India Services in the provinces should be provincialised on the lines already being followed in the case of All India Services operating in the transferred field *e g* the Indian Educational Service All the prospects that the present members of these services now enjoy should be reserved to them Opinion of the Madras Government

139 The situation is well understood by the Services themselves In the preliminary memorandum submitted to the Indian Statutory Commission by the Bengal Association of European Government Servants and the Managing Committee of the All India Association of European Government Servants it is Opinion of various Service Associations in India

stated —"Responsible self government for India is the goal of the British Government It is evident that the existence of officers under the control of the Secretary of State and not finally subject to the local authorities is inconsistent with any form of real self government When this goal is finally reached there can be no officers left who are still under this control' And in summarising the essential points of their memorandum they say —'Real self government for India is inconsistent with the existence of the Superior Civil Services as at present organised' Again in the memorandum submitted by the Punjab and the Frontier Association of European Government Servants it is stated — If the attainment of responsible government by India is indeed the goal of the British Government we can see no justification for the retention by the British Government of power to enforce the rights of the services against the wishes of the future rulers of India"

Our conclusion

140 This principle was accepted and acted upon by the Lee Commission who recommended that all the services in the transferred departments should be provincialised In fact any other conclusion is not possible It is of course probable that the services may continue to be recruited for some years longer as at present but no self government is possible unless the services are provincialised and all officers are placed under the Ministers If any European officers are required there is little doubt that the new Governments will be able to obtain their services from the Government of India or would even after full provincial responsibility is conferred on them continue to recruit them

SANKARAN NAIR

NAWAB ALI KHAN

SHIVDEV SINGH UBEROI

MINUTE OF DISSENT BY THE HONOURABLE SIR ARTHUR FROOM

I have signed the Report presented by our Committee because, although, on the one hand, there are several points on which I differ from my colleagues, on the other, there are many conclusions arrived at in which I am in agreement with them

I will now proceed to set forward in detail my opinions where they are at variance with the recommendations embodied in the main report, but while doing so I should like to emphasize that I am at one with those who seek to further the advance of India towards the final goal of a self governing Dominion within the British Empire in a manner which will be in the best interest of India

There has been among us a failure to reach agreement on many fundamental questions This perhaps was not altogether unexpected and may be regarded as illustrating the position in India as it exists to-day The task is not only to frame a constitution for India suitable to Indian conditions but to secure a compromise and co operation between conflicting interests, without which no constitution will ever work

Separation of Sind

My Muslim colleagues have urged on the Committee the desirability of the separation of Sind from the Province of Bombay and its creation into a separate Province The majority of my colleagues have concurred in this proposal I recognise that some readjustment of Provincial boundaries may be found desirable in the future but I am impressed by the financial arguments, put forward by the Government of Bombay, which clearly show that the separation of Sind from Bombay at the present time would mean an annual deficit in the financial adminstration of the former amounting to a prohibitive sum It appears therefore, if from this point of view only that separation at the moment is not practicable, but I see no objection to a reconsideration of the proposal when the financial position permits

Burma

Our visit to Burma with the Statutory Commission revealed an overwhelming and unanimous demand on the part of Burmans for separation from India What also impressed us vividly was that the demand by the people of Burma received strong support from the Government of the Province the Head of which was until recently a distinguished Member of the Government of India The following is an extract from the Memorandum of the Burma Government —

"The Burmese live in a country which geographically is distinct from India and is cut off from it by hill, sea and jungle The people of Burma come from a different stock,

and have a different history a different religion, different languages, a different social system different manners and customs, and a different outlook on life "

That this is a correct description of the location of Burma and of its people cannot be disputed

So long as the Government of India was an autocratic Government, responsible only to the British Parliament the Burmans appeared to acquiesce in their being tacked on to India but since the British Government have announced their intention of establishing step by step responsible government in British India they have pressed for separation in my opinion not without reason

It has always been difficult to get Burmans to stand for the Legislative Assembly where they have four elected seats which are rarely filled They feel they have little or nothing in common with the Indian and find they have little inducement to make the long and tedious journey from Burma to Delhi or Simla which occupies five or six days

The Joint Select Committee which reported on the Government of India Bill did not advise that Burma should be included in the scheme of Reforms (vide par 8) and that Burma was subsequently brought in appears to have been mainly for reasons of administrative convenience

Again the Government of Burma in their Memorandum put forward the proposition that the lower British India approaches to responsible Government the less justification there is for a position in which Burma is included in British India and I am in thorough agreement with that view

I recognise that the present financial and military relations between Burma and India constitute a problem of some difficulty which will have to be faced in according separation to Burma but I have little doubt that this problem can be solved on its examination by an authoritative body on which the interests of both India and Burma are represented and presided over by an impartial representative of the British Parliament

The form of Government to be accorded to Burma as a component part of the British Empire after separation from India will require special consideration and I consider it outside the scope of our Report I would make this reservation however, that the interests of Indians and other communities who have settled in Burma for many years must be safeguarded when framing the constitution

Law and Order

I have indicated already my agreement with my colleagues that it is generally desirable to develop self government in the Provinces to the utmost practical extent Throughout our tour however there has been much evidence of the vital necessity for maintaining peace and tranquility throughout India especially in those Provinces where admittedly Communal

differences, often leading to serious riots, are most acute There is not in India that universal respect and assistance for the guardians of Law and Order, common in Western countries which brings to the aid of Government, irrespective of its political complexion, the bulk of public opinion in any emergency that may arise My colleagues have recognised the risks entailed in making Law and Order a transferred subject, and I concur with them in the provision of extraordinary powers which they would vest in a Governor and the Governor General, and believe such powers to be essential I do not consider, however, these safeguards at present all sufficient

The difficulties which would face any Minister, be he Muslim or Hindu, responsible to the Legislature, in taking action on a communal disturbance, or indeed in administration generally, are very real It is not over stating the case to say that, whatever line the Minister might take he would be suspect by the rival community, and I am convinced that the bulk of the people would prefer for the present that this Department of Government should be in the hands of an impartial authority

At the same time I [illegible] this department of [illegible] nect on with the worl [illegible] the measure of self government and adversely affect the increased sense of responsibility which we are aiming at In short it is necessary to devise without undue risks to the maintenance of peace and tranquility some solution of this difficulty which would remove any impression of the continuance of dyarchy in the Provinces

Of the many proposals which have been placed before us for the direction and control of Law and Order an examination of the suggestion made by the Government of Bengal and recommended for that Province by my colleagues has been most helpful, and after the closest study of this and other proposals, I have arrived at the following conclusions —

I am of opinion that the portfolio of Law and Order in all Provinces save in Madras to which I will refer later should be in the hands of an official or non official not necessarily elected appointed directly by the Governor He would sit with and be a Member of the Cabinet and with them have a seat in the Legislature His policy would be discussed and agreed in the Cabinet and would be placed before the Legislative Council as that of the Cabinet as a whole He would have full responsibility with other Members of the Cabinet on all matters and in the case of the appointment of an official his administrative experience should be of considerable value In the event of Government being defeated on any question entailing the resignation of the Cabinet he would resign with his colleagues Over questions of Law and Order on which he is unable to

come to an agreement with the rest of the Cabinet, reference should be made to the Governor, who if necessary, would act under the special powers vested in him

A special reference has been made above to Madras in which Province I would make an exception to our proposal The evidence we have received in Madras from all quarters did not disclose the same uneasiness as regards the transfer of Law and Order and I therefore agree that in that Province the portfolio for its administration should be allotted by the Chief Minister in a similar manner as other portfolios The success or otherwise of this policy in Madras will no doubt be closely watched by other Provinces and after a period of ten years I would not object to the special provision recommended for them being open to reconsideration by the Legislative Councils and if so desired withdrawn by a vote of two thirds majority

Salaries of Ministers

I am in agreement with my colleagues in their recommendation that the salaries of Ministers (and of the Presidents of the Provincial Councils) should be fixed by an act of the local legislatures alterable only by an amendment of such Act We have recommended joint responsibility for the Cabinet and have provided machinery for a vote of no confidence in the Ministry, and it is not desirable that there should be room for motions to reduce any individual Minister's salary which form of baiting has been prevalent under the existing constitution for the Provinces

I am of opinion that the salaries of Ministers should be fixed at a sum which will attract men of ability enable them to live in a manner suitable to their high rank and *place them above suspicion of bribery or corruption* These should be the main considerations to be taken into account when the Act referred to above is framed or amended

Franchise

I am unable to agree with my colleagues that the Franchise for the Provinces should be immediately doubled The existing strength of the Electorates based on a percentage of adults is not inconsiderable as will be seen from the following figures taken from our Report —

	Per cent
Burma	46
Madras Bombay Punjab and the United Provinces Assam Bengal	11 to 13
	9
The Central Provinces and Bihar and Orissa	4

The *existing* Franchise includes many whose general education and status do not enable them to exercise their vote with a real sense of responsibility *Had there been a clean slate to write*

on I should have deprecated even the advisability of placing the qualification as low as it is at present The statistics given in our report show that there is a considerable and continuous expansion of the Electorate due to increasing numbers attaining year by year the standard of qualification now existing, and I consider that rate c
for the present
newly created Prov
and irresponsible
standard of representatives The Report of the Education Committee shows that there has been advance in primary education but at the same time points out that the advance is at present more superficial than real I would prefer therefore to allow a further period to elapse before contemplating any change in the Franchise It should be noted that all Local Governments are also of this opinion

I consider however that provision should be made in the Statute for the periodical revision of the Franchise, and that this power, with certain restrictions should be vested in the Provincial Legislatures

I recommend therefore that there should be no change in the Franchise for seven years from the introduction of any new constitution At the expiry of that period the Legislature should have power to increase the Franchise should it desire to do so, to not more than 25 per cent of the adult population A revision under similar conditions should be provided for on the expiry of each subsequent seven years Thus each Province if willing, will be enabled to obtain adult suffrage at the end of 28 years I am of the opinion that the demand for votes should come from the unenfranchised rather than it should be thrust upon them

This recommendation may appear unduly ambitious in the light of the history of the growth of the electorate in the United Kingdom from less than 3 per cent in 1832 to 9 per cent in 1867 and 16 per cent in 1884, full adult suffrage being only reached in 1929 nearly a hundred years after the introduction of the Reform Act in 1832 I believe however that the world is progressing at a more rapid rate to day and that this should be recognised accordingly

I am of opinion that too much attention has been given to Western democratic practice in an endeavour to frame electorates which would be suitable to India and to Indian conditions as they are to day It has been found essential to recommend in many instances the continuance of special constituencies in order to secure desirable representation of various important interests and I submit that this in itself is a strong recognition of the fact that it is not practicable to adopt wholesale in India the democratic precepts of the West Communal Electorates

After the most careful consideration of this difficult problem I have come to a definite conclusion that separate electorates and

special constituencies must be continued for the present and that not until majorities by their impartial legislation and by their just administration have won the confidence of minorities can these *special protective expedients* be withdrawn and then only with the consent of those concerned.

India is not a Nation; the growth of national spirit is still in its infancy and largely dependent on the British administration. To endeavour to force its growth by advanced democratic electoral machinery is more likely under present conditions to destroy rather than to foster a national outlook.

My colleagues recognise the necessity for protecting the representation of the smaller communities and have provided for them in some cases by separate electorates and in others by the reservation of seats in joint electorates. The larger problem in the majority of the Provinces is one arising from a consideration of the requirements of Muslims and the depressed classes and here I repeat my opinion that however desirable in theory general electorates for all may be, to be successful they must rest on the willing consent of all concerned. That consent is not at present forthcoming and it would be impracticable *and a danger* to progress to force upon minorities totalling together nearly half the population of British India (Muslims 70 millions, depressed classes 44 millions, a total of 114 millions out of 230 millions) a system which they are not prepared to adopt. I hold the view therefore that the present arrangement *should be* retained for Muslims and extended *to the depressed class* for the former on the basis of representation now existing and for the latter on the basis of representation which my colleagues have agreed to.

My colleagues when recommending that *representation for* communal interests should be either *on a population basis* or voting strength whichever is more favourable to the community have proposed with apparent logic to apply that formula in the Punjab to the Hindus and the Sikhs who are jointly *in a* minority in that Province. It appears to have been overlooked however that owing to the high percentage of Sikhs on the electoral roll this would provide a majority representation for Hindus and Sikhs combined over the Muslims. I prefer that minority interests in all provinces should be safeguarded as at present by giving weightage to those interests in the Legislatures. In no case however should weightage be allowed to reduce a majority population to a minority of representation in the Legislatures or even to an equality.

Whilst on the subject of communal representation in the Legislatures I desire to comment upon the present practice of communal representatives in the Executive Government and the Services.

I am convinced that any statutory provision for communal representation in a Provincial Cabinet is inconsistent with the

assumption of joint responsibility and impossible of acceptance The provision for direct representation should secure to a minority adequate influence to prevent a Cabinet from over looking its claims and will indeed often result in the selection of a Minister from a minority group

Representation in the Services is a more difficult question I would like to see the appointment of members of the Provincial Services through Public Service Commissions and dependent solely on merit, with the various communities in such educational position to secure proportionate representation without artificial aid This however, unfortunately, is not the position at the present time and an intimate knowledge of Indian conditions forces me to the conclusion that the existing artificial methods though unsatisfactory, must continue I believe, though, that the rate of educational progress will enable these to be with drawn within a reasonable period of time

Representation of women

I agree with my colleagues that the representation of women in ... It is well known, how eve... esent restrict them from tak... enjoyed by their sisters in the West

I deem it inadvisable, however in the interests of their advance to separate them from the male voter There are women in India to day who could gain election to the Legislature through their respective constituencies and I would prefer to encourage them to use this channel Should no woman secure election in this manner the Local Government and the Governor General in Council should have power to provide for their representation but not necessarily to the extent of 5 per cent recommended in our Report

Second Chambers

Three Local Governments and five Provincial Governments are definitely in favour of establishing Second Chambers Those not recommending a ... for the most part by ... suitable material for ... found a considerable body of opinion in favour of the establishment of Second Chambers, and this opinion is confirmed by history

I think it would be apposite here to quote the views of such well known authorities as Mill and Bagehot —

> A majority in a single assembly when it has assumed a permanent character when composed of the same persons habitually a... their own If ... if released f... will be con... same reasons which induced the Roman to have two

Consuls make it desirable that there should be two Chambers, that neither of them may be exposed to the corrupting influence of undivided power even for the space of a single year "—Mill

"With a perfect Lower House it is certain that an Upper House would be scarcely of any value If we had an ideal House of Commons perfectly representing the nation, always moderate never passionate, abounding in men of leisure never omitting the slow and steady forms necessary for good consideration it is certain that we should not need a higher Chamber The work would be so well done that we should not want anyone to look over or revise it, and whatever is unnecessary in Government is pernicious But though beside an ideal House of Commons the Lords would be unnecessary and therefore pernicious beside the actual House a revising and leisured Legislature is extremely useful if not quite necessary "—Bagehot

The majority of my colleagues have declared their opposition to Second Chambers in all Provinces save in the United Provinces— where the existence of a large landed aristocracy provides suitable material for a Second Chamber" It appears therefore that they too take their stand chiefly on the ground of lack of suitable material in the other Provinces but I consider that a proper exploration into this question would reveal that their fears at any rate as regards the larger Provinces are more fancied than real

A point in the arguments against Second Chambers which has caused me to ponder more than any other is the position of the Governor who on occasions might conceive it his duty to exercise his right of veto on some legislative measure which had been passed by both Houses This admittedly would be more irksome for him than the exercise of his powers in connection with legislation passed by a single chamber only The other side of the picture however is that the restraining influence of an Upper House would reduce to a minimum the occasions on which the Governor would feel himself called upon to interfere and to my mind the latter consideration outweighs the former

The rate of political advance has far outstripped the measure of social advance and many of India's leading citizens will not at present contemplate seeking the suffrage of the Electorate Second Chambers will afford the opportunity of bringing to the Provincial Governments men who by their position among their fellow citizens and by their experience of the world will be found able Councillors, but whose services would not otherwise be available Further they will be men freed from the turmoil and restrictions of party and communal politics and able to consider problems on their merits

Finally I am convinced that under conditions existing in India, Secondary Chambers with revisionary powers will make an advance, towards self government in the Provinces a more practical proposal

I agree with the views of those Provincial Committees who consider the composition of the present Council of State a suitable basis on which to build up Second Chambers for the Provinces The qualifications for both candidates and electorates should remain high

I would suggest that Second Chambers should be permanent in order to secure continuity a third of the Members being called upon to retire every five years, but without being debarred from seeking re election or of being re nominated The first and second retirements should be decided by ballot That there should be a proportion of Life Members is also worthy of consideration

All India Services

The majority of the Provincial Governments—Bengal, Bihar and Orissa the United Provinces the Punjab and Assam—in framing their proposals for provincial self government have declared emphatically that the Security Services i e, the Indian Civil Service and Indian Police Service must remain on an all India basis and be recruited as at present The Bombay Government s views on this important matter are somewhat indefinite and it is not referred to in their Memorandum at any great length beyond certain suggestions that safeguards should be provided for Government servants

The Madras Government goes further and state that with responsible self government the Province must be free to recruit its own servants as and where it likes At the same time even the Madras Government appears to have certain qualms as to the wisdom of its proposals as it goes on to say " A new Indian Civil Service for Central Government needs and lent out by agreement on the lines of the present Indian Medical Service might be possible

Of the Provincial Committees Bengal Bihar and Orissa Punjab and Assam are in favour of the retention of the Indian Civil Service and Indian Police Force as all India Services in their respective Provinces The Bombay Committee does not make any special reference to the question but seeing that they are in favour of continuing Law and Order as a Reserved Subject for some years it follows that the Security Services would remain as they are The Madras and United Provinces Committees oppose the retention but each with one dissentient

We therefore have before us a large majority of opinion that, at any rate for some time to come the Indian Civil Service and Indian Police Force should be preserved in the Provinces on their present basis and I strongly concur in that opinion, which it would be extremely unwise to ignore

The main argument put forward for the complete provincialisation of the Services when all subjects have been transferred in the Provinces has been that a Minister would not receive the same loyal support and conscientious work from an all India Service Officer compared with what he would experience were the recruitment of the Officer, his pay and prospects under the control of the Local Government. This argument has been refuted, however, both in India and by retired officers in England and it has been pointed out that the Local Governments for many years past have gone on very well without having absolute control over their men no difficulty being experienced on that account.

I hold the view that it is of the utmost importance to maintain the past high standard of efficiency and morality in the Services which will be working in the future under Ministers responsible to the Provincial Legislatures and I believe that the whole success of self government in the Provinces will depend mainly on the material which will be available to work it. To abolish the Indian Civil Service or the Indian Police Service or to tamper in any way with their present privileges and methods of recruitment would to my mind prove a calamity. Both these Services have high traditions behind them traditions which have helped their members over much rough ground and in many a tight corner, and to regard the past records as of no account would be deplorable.

It has been pointed out to us clearly that under any other conditions of service and of recruitment than those now provided the right type of British will not come forward to serve in India and it has been stated that in the lately provincialized Services the standard has gone down. I consider it is essential that the British element in the Services must be maintained for many years to come and this opinion is held by many prominent Indians. I do not suggest however that the recommendations of the Lee Commission should be set aside but I hold that the proposals of that body are as far as we should go. It cannot be denied that the British element in the Services is welcome to many in India as being neutral and in questions which take a communal turn with resulting bitterness—unfortunately such happenings are more frequent to day than they were in the past—the British official is appealed to as impartial being of neither one community nor of the other.

I strongly recommend that the existing all India Services be maintained throughout India recruited as at present and, while doing so I have no fear but that they will continue to give of their best under advanced self governing Provinces as they have done under the various Governments in the past.

Of all the intricate problems which have been examined and discussed by our Committee those of Finance and the Financial relations between the Central and Provincial Governments, have presened one of very great difficulty

Shortly after the commencement of our Sittings with the Statutory Commission, Sir John Simon declared that he and his colleagues did not pretend to possess any extraordinary knowleuge of higher finance and stated that he had secured, therefore, the services of an expert, Mr Layton to assist the Commission and also the Indian Central Committee, who for their part did not lay claim to the special financial perception which the Commission so modestly disclaimed

Mr Layton joined the Joint Conference during our tour in India in order that he might acquire first hand knowledge of financial conditions in the country Since our arrival in England, Mr. Layton very kindly appeared before the Joint Conference to give us the benefit of certain provisional conclusions he had arrived at He was careful to explain, however, that such opinions were not final and at the time of writing our report we have not had the advantage of his ultimate conclusions, which is to be regretted

I am in complete agreement with my colleagues in opposing a policy of financing Provincial Governments by grants in aid from the Centre Indeed, such a policy has not been in existence since the introduction of the present reforms, except in so far as the relief afforded, to certain more fortunate Provinces by the remission or part remission of their contributions to the Central Government, might be described as grants in aid Provincial contributions however, have been done away with it is hoped for good and all and there is now no form of doles to the Provinces from the Centre

While however I concur with my colleagues that Provincial Governments should not be financed by means of grants in aid from the Central Government I am equally of the opinion that the Government of India should not depend for its revenues on subscriptions from the Provinces as recommended in our report This would in effect be a reversion to "Provincial Contributions" as established by the Meston Settlement, which were condemned in and out of season by Provincial Governments and commercial and other bodies, in fact by everyone concerned

I am unable to subscribe to the suggestion of my colleagues that all the revenues of the Provinces should be at the disposal of their respective Local Governments To take Customs alone, it is unthinkable that a Province which is the fortunate possessor of a large port should claim the Customs Duty levied on all merchandise landed at that port regardless of the fact that a large proportion of the goods landed are not for the consumption of the Province alone but passes into neighbouring territories Then it has not been refuted by anyone that the rates of Income Tax Super Tax Salt Excise should be fixed otherwise than at a uniform level throughout India and therefore determined by the Central Government and I cannot conceive that they can be economically collected except by the Central Government I do not contend that it

is unreasonable for the Provinces to lay claim to a share of these last mentioned taxes and of others which may be brought into being

It is generally agreed, and rightly so that there is a real need in the Provinces for additional revenues in order that adequate development may progress in the various nation building departments At the same time it must be equally recognised that the sources of revenue at present belonging to the Central Government cannot be appropriated to the Provinces without their replacement by new or additional forms of taxation

I submit that the time has come in the opinion of some it is long overdue, for the adoption of many, though possibly not all of the recommendations of the Taxation Enquiry Committee made after an exhaustive enquiry by eminent men which for the most part, have been ignored I do not forget that the Central Legislature refused to discuss the Report but as I have pointed out earlier in my remarks on this subject if more money is to be spent in the Provinces more money must be found It cannot be squeezed solely out of the Central Government's present revenues

Of all the financial proposals which have been submitted to the Joint Conference I have been most impressed by those of the Bombay Government and they are well worth considering though possibly some adjustments may be necessary in order to assist the poorer provinces

I assume it will be found necessary to allot to the Provinces in some cases the whole in others a fixed proportion of old or new taxes collected by the Central Government and I can see no objection to this from the provincial point of view In the first named happening the Central Government will be acting merely as a collecting agent In the second although the receipts may be divided the province will know the exact proportion to which it is entitled and here again the Centre will be a collecting agency The old bugbear of "Divided Heads of Revenue" could not be resurrected with reason in either instance

Another point which renders it essential that the Central Government should collect those taxes which are of necessity on a uniform basis throughout India is that—in cases of grave emergency the Government of India might find itself under the urgent necessity of obtaining increased funds This it would be able to do by levying an indivisible surcharge on the taxes collected at the Centre

That there must be some co ordination between the Provinces and the Central Government in the matter of finance is irrefutable The question of borrowings alone must inevitably lead to conferences otherwise the various provinces would be competing with each other in the money market for their loans

It appears to me inevitable that some of the recommendations which are put forward by our Committee and others which may be advanced by the Statutory Commission will require the closest examination by small bodies of experts I consider the question of finance should be one

The Military aspect of the constitutional problem is one of great perplexity There can be no disputing certain facts India through her geographical position is very differently placed to any of the other Dominions Her requirements for defence with those for internal security, necessitate the maintenance of a standing Army impc

a financial strain that seriously

expenditure on much needed wo

The technical experts say not I think unreasonably that the size of the standing Army reduced in recent years already envisages definite risks in view of the magnitude of the task with which it is faced and that no Commander in Chief would accept the responsibility if the Army in India were further reduced either in size or in its present degree of efficiency

The Army

Through lack of sufficient detailed information Indian and I will add some European opinion has believed that the Army in India is maintained at its present strength not solely for Indian purposes but also for Imperial purposes From the statement placed before the Joint Conference by the Army Council it is obvious that there is no justification for that belief and I think it is only due to the taxpayer in India that the statement or a similar one should be given the fullest publicity throughout the country The Army in India is entirely under the control of the Government of India its size dictated solely by Indian conditions and it is subject only to the final authority of the British Cabinet

One of the particularly perplexing features of the problem is the presence in the Army in India of British troops It must be recognised at once that the grant of full Dominion status to India must be accompanied by the withdrawal of British troops In no Dominion save for some temporary purpose have British troops been permitted to remain after Provincial self government has been granted No one save a few of extreme views would to day suggest that it would be practicable to withdraw them Indian opinion generally recognises that position and the necessity for reservation of defence for some time to come

The task of the Army in India is twofold —

(1) The protection of India from external invasion

(2) The maintenance of internal security which includes duties in support of the police and the military protection of strategic railways

Whilst in all portions of the British Empire the Army forms in these a final reserve to the Police Force it is very excep

tional that it is so used in practice The reverse is the case in India The Army is constantly and regularly called upon in support of the Civil Authorities and the number of troops maintained on internal security is largely dictated by the requirements of Provincial Governments

I would examine the latter position first since we seek as early as possible to establish self government in the Provincial Sphere My colleagues have questioned the desirability of employing regular troops of the Indian Army in communal and religious disturbances which unfortunately are at present only too frequent On all hands the neutrality of British troops in such disturbances has received widespread recognition and approval It would I think be exceedingly unwise to withdraw this aid from Provincial Governments and it is necessary therefore to make constitutional provision accordingly The special powers which my colleagues would so wisely vest in the Governor for the purpose of maintaining peace and tranquillity appear to provide the requisite constitutional channel for the employment of British troops at such times when their quality of neutrality referred to above would be of particular value in the settlement of a disturbance

My colleagues however express the hope in which I concur that time will lead to the special powers they propose vesting in the Governor being nullified through desuetude and it is impossible to contemplate the continuance of such powers for all time I am therefore of opinion that a commencement should be made at once to relieve the Army of internal security duties other of course than the protection of strategic railways and to place these duties on the police This would naturally entail a large increase in the strength of the present Police Forces in many Provinces and be beyond the capacity of existing provincial revenue The provinces with some degree of reason say that the cost of the Army in India includes the task of internal security and that it is impossible to find in addition the money for increased Police Force I therefore recommend that within a period of five years after the introduction of any new provincial constitution and after the new Local Governments have had experience of the problem that a conference between the Provinces and the Central Government should be set up to examine the position and to see to what extent increased Police Forces in the Provinces would lessen the responsibility of the Military Authorities for internal security so that by a corresponding reduction in the Military Budget the necessary finance might be made available to the Provinces It is recognised that this will not lead to the release for other purposes of any of the money at present earmarked [illegible] security [illegible]

but it [illegible]

the san[illegible] [illegible] might At

[illegible] of including in Provincial Police

Forces an adequate neutral element, to enable the replacement of British troops to be undertaken, should receive special consideration

To turn now to the larger question of the Army in India from the point of view of India's Defence against external invasion It must, I think be admitted that the rate of political advance has and will continue to outstrip the rate at which it is possible to advance in the Military sphere The establishment of a Dominion Army to replace the present Army in India must be a lengthy process In view of India's Defence problems the Army must attain a real degree of efficiency, a stage army will not suit her purpose Indians point out that they have established in other spheres a degree of efficiency that is parallel to that of the British Services and that there is therefore no reason to expect that they would not do so in the Military sphere From the evidence placed before us by the Military Authorities, however, it appears certain that India could not at present, or indeed in the very near future, attain the requisite efficiency without outside assistance Whilst experiments in Indianisation can be carried out in administrative spheres without heavy risks in that errors can be corrected, that is not the position in the Army Here the only test is the test of War, and errors once made in War cannot be corrected There is therefore the greatest necessity for caution

Certain steps have already been taken by the Military Authorities for the training of Indian Officers, and whilst I am convinced the training of Indian Officers once they enter the Regular Army must be left to the technical authorities, the existing rate of Indianisation does not give a sufficiently broad basis upon which to build up a Dominion Army The problem is to bring the rate of Military advance in the Military sphere closer to the rate at which we are advancing in the political sphere without any serious fall in efficiency

I am convinced that the first step is undoubtedly through some change in our existing educational policy and I would recommend the setting aside of a definite sum by the Central Government for the purpose of establishing in each Province Schools on the lines of the English Public Schools, but necessarily adapted to Indian conditions These should in a measurable period of time improve the quality of the candidates appearing for the Sandhurst examinations and enable us to fill up the full number of vacancies which the Authorities in England can offer us It appears very necessary to develop to the utmost possible extent the capacity and education of those now offering for Viceroy's Commissions so that at an early date it will be possible to give them Dominion Commissions The College which the Military Authorities are opening for the higher training of existing Viceroy's Commissioned Officers might be

adapted for this purpose and arrangements made so as to receive recruits not only from the existing ranks of the Army but also from Military and Civil Schools

There has been an insistent demand in India for the establishment of a Military College in the country, and the College to which I have referred should be developed so as to give the requisite opportunity for the military training in India of officers for the Indian Army

It appears to be generally necessary that the whole question of the existing organisation of the Indian Army should be examined by a Technical Committee with a view to seeing what changes would be required to make it a Dominion Army of the future

Central Government

Throughout our tour in India we were told repeatedly that with the proposed advance towards self government in the Provinces whatever form the Central Government might take in the future it must be a *strong* Government Not only the critics but also the supporters of the present Government of India have deplored it as weak and vacillating This criticism however is not levelled in the main at the personnel of the Central Government but at the system which is disclaimed as faulty and unworkable with satisfaction to anyone concerned The unenviable position of the Central Government faced with a permanent elected majority in opposition can easily be realised even by those who have not first hand experience of its workings The Government when formulating proposals have always had to study beforehand their reception at the hands of *a hostile* majority who have frequently registered their votes not on the merits of the resolution or legislation under discussion but solely with a view of hampering the Executive *This is the* situation which has now to be studied and it is a situation which doubtless all those who have declared for a strong *Central* Government have had in mind

The recommendations of the Local Governments and Provincial Committees on this important subject are somewhat vague generally Several of the latter suggest the introduction of some form of dyarchy with responsibility to the *Legislature* some have no suggestions to make holding that the question lay outside the purview of their *report* while one Committee considers that the Central Government should be of a *Federal type*, with its position *vis-a-vis* the Central ...
Of the Local Governments, *Bor*
and Bengal presumably did not
on the matter as they made n
Provinces put *forward* its proposals for its future Provincial Government *on the* assumption that there would be no radical change at the Centre Assam prescribed a strong Central Government with *effective control* over the Provinces in certain matters

as an axiom preceding the introduction of Provincial self-government, while Madras whose recommendations for self government are more far reaching than those of any other Local Government, expresses itself in no uncertain manner as follows :—" Regarding the Central Government, the proposals we h [illegible] trammelled by any [illegible] That Govern ment [illegible] time comes to replace it by a Federal body derived from the constituent Provinces and States "

Now, Dyarchy during the past eight years has been condemned on many sides, some politicians in India going to the length of declining even to try and work it No one I think ever looked upon it as more than a transitional or educative expedient and it has generally been regarded as a complex confused system rooted in compromise and having no logical basis ' That any individual or body of men should now come forward and recommend the introduction of any form of Dyarchy in the Central Government, to my mind is incomprehensible Its out standing deficiency has been a failure to establish a sense of responsibility At the same time the present Central Constitu tion has proved unsatisfactory and the problem to be solved is in what way should it be amended

When full self government as time goes on has been finally established in the Provinces and a complete awakening of the Indian States to their interests in all Indian affairs has taken place it appears incontestible that the form of the Central Government of India must become Federal and it behoves us to endeavour to shape the Constitution towards that end

The existing Constitution of the Legislative Assembly is faulty and is largely responsible for our difficulties of to day It should I think be recognised that direct election for a Central Parlia ment in a country the size of India must entail —

(1) An Assembly which to be adequately representative would be of an unwieldy size and entirely unworkable owing to its numbers , or

(2) An Assembly such as is in existence to day, com posed of a relatively small number of representatives coming from few constituencies so vast in area as to make it impossible for the candidates to be in touch with and in many instances even known to their electors

It should be remembered that India is a country the size of Europe (excluding Russia) with a vast population

I am therefore of opinion that for practical considerations and bearing in mind the necessity for a Federal Constitution in the future the basis of representation in the Central Government should be election by the Provinces and at some future date also by the States Election by the Provinces should be introduced

forthwith the number of representatives from each to be determined at a Joint Conference My proposals entail the abolition of General Constituencies for the Legislative Assembly to be replaced by election on a proportional basis by the Provincial Legislatures rules being introduced to secure candidates truly representative of the various communities I would retain special constituencies to ensure the representation of the smaller communities and of such interests as commerce trade labour landed and agriculture and would retain a proportion of nominations in the hand of the Governors and of the Governor General *for special purposes*

I come now to the Viceroy s Executive Council which is open to the following criticism Its members are overburdened with their dual role of Parliamentary Ministers and Administrative Heads of Departments and this should be remedied They have insufficient opportunity owing to pressure of work of acquainting themselves personally with the opinion of leading men throughout the country or of expounding outside the Legislature Government s policy The portfolios of some of the members are too heavy There is no direct connection between the non official members of the Council and the Central Legislature

I am of opinion that the number of the Council should be raised to ten and suggest the following distribution of portfolios —

Home Finance Commerce Foreign and Political Defence Communications Industry and Labour Law Health and Lands and Education

Of these the first five should be filled at present by Europeans and the rest by Indians It will be noticed that I have suggested a Member should be in charge of Foreign and Political and thus relieve the Viceroy of this portfolio The Commander in Chief should cease to be a Member of the Executive Council and a Defence Portfolio created to be filled by a Civil Member not necessarily a Member of the Indian Civil Service

With a view to provide closer connection between the Executive and the Central Legislature I recommend that some of the Members of the former should be drawn from the latter, this also should tend to attract a higher standard of representatives and increase a sense of responsibility In further pursuance of the policy I would advocate a Parliamentary Under Secretary to be attached to each portfolio and to be selected from the Assembly At the outset I would not preclude the appointment of past Members of the Central Legislature to the Executive Council

I see no reason to retain the provision of Section 36 (3) of the Government of India Act which lays down that three of the Members of the Governor General s Executive Council must be persons who have been for at least ten years in the service of the Crown

Members of the Executive Council should definitely be relieved of their detailed work as administrative Heads of their Departments which should be carried out by permanent officials The present system under which the Secretary of a Department is frequently changed is in my opinion unsound

The appointments to the Central Executive Council, or Cabinet should be made by the Viceroy in consultation with the Secretary of State

The Cabinet should divest itself of the aloofness and detachment which is apparent in the Executive Council to day and its Members being shorn of detailed administrative work should establish close touch with public opinion and where there are differences should make it their special care to explain the point of vision of Government which understandably may not be apparent to the man outside

Of the five Indian Members of the Cabinet two should be Hindus and two Muslims, while I make no reservation as to the fifth The Indian Members will have an important part to play in assisting to influence the votes of the Assembly Finally, the Cabinet should work together as a team and once Government's policy on any matter has been decided upon each Member should be prepared to argue and if necessary to defend that policy in the Legislature irrespective of what portfolio is directly concerned

From the above it will be seen that I have endeavoured to foster the realisation by the Central Legislature of its responsibility by bringing it into closer contact with the Central Cabinet I have earnestly considered the feasibility of introducing responsibility in the Central Legislature on the British model Apart however from the fact that I consider the introduction of such a form of Government in the Centre while we are establishing self government in the Provinces would prove nothing short of a calamity and be likely to prejudice Provincial advance I am of opinion that a cabinet directly responsible to the Legislature would be unworkable in a constitution which must assume ultimately a Federal character While it may be possible to compare the position of a Province in size and numbers to that of Britain and to provide it with a Constitution based on that of the British Government it is an entirely different matter to introduce a similar Constitution for the Central Government of India in view of the size of India its vast population its different [illegible] and numerous languages

For the present the Governor General and the Cabinet appointed by him must remain responsible to Parliament and it follows that the Governor General must retain his powers of veto and certification As regards the latter however I would vary the existing procedure Any measure considered by the Governor General or the Governor General in Council as essential for the safety tranquillity or interests of British India, should

be introduced in the first instance as a recommended Bill instead of as at present endeavouring to secure its acceptance by such expedients as cajolery, undignified persuasion and agreement to weakening amendments This would not preclude a debate on it and the possible acceptance by Government of useful amendments after which however, it would pass into law The present procedure has brought Government into disrepute and has lost to it many loyal supporters who have been unable to see in the present methods any Government at all

To strengthen the sense of responsibility other legislative measures introduced by Government would be left to the will of the Legislature to accept or reject as it thought fit, the Government reserving power to withdraw any measure which had been amended in such a manner as to render it unacceptable

The Members of the Central Cabinet should be appointed for the term of five years but subject to dismissal by the Governor General

I would retain the Council of State as at present constituted and with its present powers as a useful revisionary body I would suggest however that similar to my proposals for Second Chambers in the Provinces in order to secure continuity a third of the Members be called upon to retire every five years but without being debarred from seeking re election or of being re nominated Here too that there should be a proportion of life members is worthy of consideration

The life of the Legislative Assembly should be four years

The Secretary of State

A description of the powers of the Secretary of State is set forth in our Report and I have little comment to make on what has been written Undoubtedly as self government in the Provinces progresses and is conducted on the right lines there will be less and less room or occasion for interference by the Secretary of State

Similarly with the introduction of a Central Government, such as I have envisaged on a stronger and sounder foundation, the interference of the Secretary of State as regards details should diminish almost to vanishing point and the government of the country left in the hands of men on the spot It must not be forgotten however that the final control over the Government of India is vested in the Secretary of State who in turn is responsible to Parliament and while I recommend that interference in administrative details should be relaxed I do not forget that the Viceroy and the Central Cabinet will continue to account to Parliament through the Secretary of State What should be aimed at is that the Secretary of State should work in harmony with the Central Cabinet [illegible]
the form of [illegible]
[illegible]

subsequent corrective mandate One of the disabilities under which the Viceroy's Executive Council has been suffering has been their inability, on occasion, to take effective part in a debate owing to their being compelled to refer to the Secretary of State whenever a new situation has arisen

This brings me to the Secretary of State's Council which, it is recommended, should be abolished It is generally considered that the Council does certain work over again which has already been done in India, and undertakes other work which might be better done in India Whatever be the fate of the Council of India, I am of opinion that the Secretary of State will require the advice of some persons with first hand experience of the conditions and customs of India, though in number not necessarily as large as that provided in Section 3 (1) of the Government of India Act In this connection reference must be made to Section 21 of the Act which provides that the expenditure of the revenues of India, both in British India and elsewhere shall be subject to the control of the Secretary of State in Council Council of India

should be referred to an Arbitration Board whose decision must be final

My colleagues have recognised the necessity of embodying in the Government of India Act a declaration of certain Fundamental Rights and I desire to emphasize the essential need for some such provision Fundament Rights

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Those responsible for the drafting of the Government of India Act, 1919, recognised the situation and sought to deal with this difficult question by introducing a special provision in the Instrument of Instructions to Governors Discrimination in *administration* cannot I think, be dealt with effectively by Statute and any tendency to such bias should be checked in the main by pressure from the minority communities for whom we have provided special representation in the Legislatures For this purpose it is also essential that the Instrument of Instructions to Governors should be continued with its special provisions and similar Instructions might well be issued to the Governor General To make these effective it may be found necessary to vest in these authorities special enabling powers to intervene in any administrative action which contravenes the spirit of those Instructions Doubt however has arisen as to whether provisions in any Instrument of Instructions would be

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subsequent corrective mandate One of the disabilities under which the Viceroy's Executive Council has been suffering has been their inability, on occasion, to take effective part in a debate owing to their being compelled to refer to the Secretary of State whenever a new situation has arisen

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should be referred to an Arbitration Board whose decision must be final

My colleagues have recognised the necessity of embodying in the *Government of India Act* a declaration of certain Fundamental Rights and I desire to emphasize the essential need for some such provision Fundamental Rights

Throughout our tour statutory provision against discrimination both in legislation and administration has been insistently demanded by all Minorities—Hindus Muslims Depressed Classes Europeans and Anglo-Indians

Those responsible for the drafting of the Government of India Act 1919 recognised the situation and sought to deal with this difficult question by introducing a special provision in the Instrument of Instructions to Governors Discrimination in administration cannot I think be dealt with effectively by Statute and any tendency to such bias should be checked in the main by pressure from the minority communities for whom we have provided special representation in the Legislatures For this purpose it is also essential that the Instrument of Instructions to Governors should be continued with its special provisions and similar Instructions might well be issued to the Governor General To make these effective it may be found necessary to vest in these authorities special enabling powers to intervene in any administrative action which contravenes the spirit of those Instructions Doubt however has arisen as to whether provisions in any Instrument of Instructions would be

effective in checking discriminatory *legislation* but there is not the same difficulty in providing for this by Statute as there appears to be with regard to discriminatory administration

In view of the granting of larger powers to the Legislatures I am of the opinion that any doubt on this matter should be removed by definitely prescribing the power of the Legislature in this respect by Statute Whilst admitting the difficulty in drafting a suitable Clause it is not insuperable and indeed several draft Clauses drawn up by constitutional lawyers have been placed before the Committee by different Minorities It must be recognised however, that the general well being of India will at times necessitate *the introduction of legislation* which might be held as coming within the category of discrimination and this should be provided for in the Section of the Government of India Act introduced to deal with the whole problem

Anglo Indians

After my election by the Council of State to the Indian Central Committee His Excellency the Viceroy finding it impracticable to make room for a representative of *Anglo Indians* desired me to ensure as far as possible that every consideration should be given to the claims put forward by that Community

My colleagues are prepared to continue separate representation for Anglo Indians and indeed in several cases have proposed an increase in their seats in the Provincial Councils beyond the *ratio of the proposed increases in the total number of Councillors*

However I recognise that mere representation in the Local Councils cannot solve the difficulties with which Anglo Indians are faced to day Their numbers are not sufficient for them to claim with reason that quota of seats in the Councils which would enable their voice to be heard effectively on matters which affect them directly and are vital to their economic life

One of the chief disabilities with which the Anglo Indians are confronted in their competition with Indians for employment is that of education The Indian has surpassed them in that respect in recent years This appears to be largely due to the fact that the conditions of living of the poorer class of Anglo Indians is such as to leave little money available for advanced *education*

Until recent years Anglo Indians found employment in large numbers in certain Government services such as the Customs and Post and Telegraphs and in the Railway services We are told that such employment is rapidly passing from them and I consider that there should be some special enquiry set on foot *to examine their general position in this and in all other respects*

The British regime in India has been responsible *for* the *genesis of this* community whose loyalty has been tried and proved on many occasions and their claims justify a special plea to Parliament

Finally, I must point out that the changes proposed for the Provincial Governments will throw increased responsibility on the Governors Rightly or wrongly there has been the impression that the Governorships of the three great Presidencies in India have at times been bestowed as a reward for party services Be that as it may, India will want in the future the best men that Britain can produce and I would like to see the names submitted for these appointments chosen by a special non party board, possibly drawn from His Majesty s Privy Council The Governors of the other Provinces should continue to be selected as at present from the best men in India Governorships

A H FROOM

London

The 24th October, 1929

MINUTE OF DISSENT BY THE HONOURABLE RAJA NAWAB ALI KHAN

I regret I find myself in disagreement with the recommendations of my colleagues on two points —(1) the introduction of reforms in the North West Frontier Province and (2) the reservation of Law and Order in Bengal

2 With regard to (1), my colleagues recommend that by way of a beginning the North West Frontier Province should be given what are known as Morley Minto Reforms I entirely agree with the following remarks on this subject contained in the report of the All Parties Conference — Regarding the form of government in the North West Frontier Province and in Baluchistan we are of opinion that the status of these areas must be the same as that of other provinces We cannot in justice or logic deny the right of any part of India to participate in responsible government The differentiation proposed by my colleagues between the North West Frontier Province and the other provinces will not only have nothing in logic or justice to justify it but will also become a source of dissatisfaction and bitterness It is no part of statesmanship to make a province, whose importance from certain points of view is obvious discontented and resentful It will be unwise I think to make it smart under a sense of inferiority

3 The point was made perfectly clear by Khan Bahadur *Saaduddin* Khan one of the witnesses who appeared before us I quote the following from his evidence — Our position is that we want to sink or swim with India we want to be in the same boat If Reforms is a *good thing* as *all* of them say it is a good thing then it should be increased If it had been a bad thing nobody would have said that further instalments should be due , and if it is a *good thing* why should we be deprived of it ? I do not know that the conditions in this province are in any way worse than the conditions in the rest of India '

4 It is well known that Muslim political opinion throughout the country demands the extension of the Reforms *to the North* West Frontier Province on the same lines as in the case of the other provinces Without exaggeration this might be described as an All India Muslim *demand* It is important to note that this demand has the support of the Hindus at large In the debate on the Budget on the 14th *March 1928* the Legislative Assembly without a division carried a token cut in the demand under the head "*North West Frontier Province*" to express dissatisfaction at the failure of Government to grant a reformed constitution to that province Lala Lajpat Rai one of the foremost Hindu leaders spoke in favour of the token cut and appealed to the local Hindus to abandon opposition to the extension of the Reforms to their province In view of these

facts I am afraid I must decline to support the recommendation of my colleagues

5 I may here observe that having regard to the racial characteristics of the Pathan, the fears of my colleagues may not be quite justifiable Those who know him admit that he has a genuine strain of democracy in him He follows his leaders, generally appointed by himself Therefore with such adequate safeguards for the minority community in the province as the Committee has recommended for the minorities in other provinces, he should be allowed, in my opinion, to manage his own affairs like his brethren in other parts of the country

6 As a concession, however, to the view of my colleagues, I am prepared to recommend that the Montagu Chelmsford Reforms should be introduced into this province for a period of ten years, at the expiry of which it should have the same status as other provinces Even if this modest recommendation be found unacceptable I would most reluctantly recommend that the North West Frontier Province should be amalgamated with the Punjab This alternative will I think, be more acceptable to the people of the province than the Morley Minto Reforms which have been recommended for it The deputation from the Advanced Muhammadan Party made this point unmistakably clear Khan Sahib Sardar Gulhan Khan the spokesman of the deputation, said — So far as the expenditure is concerned I think, Sir, either we should have Reforms without any consideration being paid to the financial position or if we cannot have it as our spokesman said, then we want to be re amalgamated with the Punjab"

7 I do not think it necessary to discuss the financial aspect of the question at length There are many ways of solving the financial difficulty and different proposals have been made on the point from time to time I would here invite attention to the views of the majority of the Bray Committee on the subject They say — But more than half the expenditure is incurred not only on civil administration proper but in connection with the tribal tracts and border defence The revenue of the tribal tracts is insignificant and expenditure on border defence yields no return in revenue It is obvious therefore that if the expenditure on districts and tracts is taken as a whole the expenditure in a time of rising prices must outrun the revenue The largest increases since the formation of the province appear under the heads Political (28 lakhs) and Police (40 lakhs) These large increases are partly due to the larger forces of Border Militia and Frontier Constabulary now found necessary to counter the vast improvement in the armament of the tribes and partly to the enhanced rates of pay of all ranks which have had to be advanced *pari passu* with the increase in the pay of the Indian Army Thus the principal rise in expenditure has been incurred for the protection of India s land frontier

and for this it is clear that India as a whole must pay It is out of the question for the frontier districts to bear the charge It was not borne in the old days by the Punjab, for the Political head was always Imperial "

I am of opinion that if the entire financial system of the province is overhauled in the right manner the finances of the province will be able to bear the cost which the acceptance of my recommendations will entail

8 I now come to the question of Law and Order in Bengal My colleagues have recommended that while every other subject should be transferred to ministers responsible to the Legislative Council Law and Order should be a reserved subject in charge of a member not responsible to the Council In other words they propose to continue dyarchy in Bengal Now, it is well known that dyarchy has been most strenuously and successfully opposed in Bengal during the last nine years It seems to me to be a strange reply to the protests of Bengal that she of all provinces should be singled out for the continuance of dyarchy Apart from this I think that if Bengal is treated on a footing different from that of the other provinces it will give rise to intense dissatisfaction which will be fatal to the working of the new reforms Bengal has enjoyed the benefits of British rule and English education for a longer period than almost any other province in India I therefore see no reason for treating it on an inferior footing

9 If the Committee's proposal is accepted the position of the member in charge of Law and Order will become an impossible one as all criticism will be directed against him The Committee have not proposed that the Governor should retain his powers of certifying legislation and restoring grants Without these powers I do not see how dyarchy is to be worked and I am sure that if the problem were properly faced my colleagues would find good reason for changing their minds The reservation of Law and Order would in my opinion lead to great difficulties and in fact bring the working of the whole machinery of government to a standstill I am therefore strongly opposed to it

NAWAB ALI KHAN

MINUTE OF DISSENT

BY

NAWAB SIR ZULFIQAR ALI KHAN, KT, C S I, AND DR ABDULLAH SUHRAWARDY

(Members of the Indian Central Committee)

INTRODUCTION AND HISTORICAL SURVEY

The unique and complex nature of the Indian problems is patent to all Some Western idealists seek solution for them in the application of pure democratic principles to the future polity of India In their zeal they ignore the special conditions of Indian life and imagine that since they have proved so successful in their own country they must necessarily produce the same satisfactory results in that vast sub continent called India We admire the benevolent intentions of these men but we are not convinced of their practical wisdom India is equal in area to E[illegible] pulation is not much smaller th[illegible] of European civilisation are u[illegible] prevail almost everywhere yet it is impossible to conceive a single Continental system for all Western countries The Germans and the English belong to the same racial stock but is it possible to imagine that the British would gladly accept the German rule over themselves and *vice versa*? In fact after the war even small and insignificant populations had to be liberated from alien rule in order to afford opportunities of self expression to them

This process of segregating nationalities and redistributing territories was considered the sole means of establishing peace in Europe on permanent basis Even this drastic rearrangement of the political map of Europe was not considered sufficient to guarantee peace in Europe and the crushing authority of the League of Nations had to be imposed on it India with her antagonistic religions and incomprehensible social systems and different political ideals which her various races cherish, and the numerous languages and tongues which are used by them, cannot by any flight of imagination be considered as a single country, containing a single nationality, inspired by common communities and interests

India is so remote from England and its past history and present political situation are known only to those who make a special study of them and therefore it is incumbent on us to describe in as brief a manner as possible the development of the present conditions with regard to the communities This would in our opinion be essential for the just comprehension of the claims of the 70 millions of the Moslems in India Our justification for this brief survey is that it would provide His Majesty's

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in their own country they must necessarily produce the same satisfactory results in that vast sub continent called India We admire the benevolent intentions of these men, but we are not convinced of their practical wisdom India is equal in area to Europe, excluding Russia, and its population is not much smaller than it, and although the affinities of European civilisation are undeniable and similar social ideals prevail almost everywhere,

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Government with unvarnished facts and undeniable historical claims which alone would enable the British Parliament to uphold those traditions of justice and fair play for which the British people are so distinguished Besides it would save the Moslems of India all that bitterness and sense of grievous wrong which would be the inevitable consequence of ill considered decisions strongly influenced by preconceived notions of India containing a homogeneous population In any case we shall have the supreme satisfaction of having tried to induce those who sit in the judgment seats that it is essential to bear certain simple facts in mind in order to understand the present situation

The invasion of the Deccan by Emperor Aurangzeb was as disastrous to the Moghul Empire as the occupation of and retreat from Moscow was to the French Empire The catastrophe of the Grand Army raised nations and national aspirations against Napoleon and closed his career of glory and liquidated his empire Aurangzeb's prolonged expedition exhausted his treasury and dispirited the Army which resulted in the downfall of the Moghul Empire The chaos which supervened after the last of the great Moghuls gave a great impulse to centrifugal tendencies among the distant governors

There is hardly any doubt that the rising of a new spirit among the Hindus would have wiped out the British settlements in Calcutta but the sublime breathing of history determined the rhythm of this epoch Ahmed Shah Abdali the King of Afghanistan invaded India in response to the urgent appeal of the Moslems He met the overweening arrogance of the Mahrattas at Panipat It was a deadly struggle between Hindu ambitions and Moslem religious enthusiasm The Hindu power and pride was shattered on the field of Panipat The King withdrew from India after a grave warning to the Head of the Mahratta Confederacy that they would see him again in India if they dared to resume their crusade against Moslems with the avowed object of driving the Moslems out of India Fate thus averted a great catastrophe which menaced their very existence in this country The British after this had an easy task to deal successfully with the fragments of the Hindu Confederacy

Nearly a century later another abortive attempt was made by the Hindus to rouse the Moslems against the British but the British triumphed during the Indian Mutiny and the implacable spirit manifested by the notorious Nanasahib and others remained quiescent for nearly sixty years

In 1920 the British had again to cope with the rising tide of Hindu ambitions The Hindu tactics on this occasion were similar to those employed during the Mutiny By clever manœuvring they won over to their side some credulous Moslems whom they made to fight their battles The result was that as in the Mutiny, so in the years 1921 22, the duped Moslems had

to bear the brunt of the fight Eighty per cent of those sent to jail were Moslems The threatened resurgence of Hindu revolutionary spirit will afford opportunities to see whether they would challenge the might of the British Government single handed *Their Bismarckian policy has been discarded, at any* rate this has been openly declared by some apostles of the doctrine that Hindustan is only for Hindus This school of thought embraces the entire student class as well as the professional and business men The Press and the Professors inculcate Neitschian philosophy Hindustan is to be purged of all non Hindus even if they belong to the same race Hindu nationalism is to fight its own battles, and would treat those with utter contempt who criticise its arrogant and selfish appropriation of the functions of Government Hitherto the Hindus have never fought alone in fact they have always employed the Moslems as the shock battalions It is a perfectly novel venture and its experiment would not be devoid of interest for the non Hindus

This heroic resolve will find fruition in their dealings with the present rulers but they have an additional programme for their aggressive activities with regard to the Moslem community The Hindu Maha Sabha is started with the avowed object of subverting the political rights of the Moslems Its two branches known as the Shudhi and Sangathan organisations have for their aim the conversion of the Moslems to Hinduism by force or fraud and of preparing the young fanatical Hindus by physical culture for the task of fighting the Moslems on the occasions of riots which would be fomented according to the dictates of Maha Sabha's policy The rivalry which Maha Sabha has so zealously launched has behind it the memory of conquest and subjugation It is consecrated by the visible antagonism of mosque and temple and is actuated by an implacable hatred of the Moslems, who according to its political creed must be exterminated This grim determination has found tragic manifestation in communal riots at different places in India At Arrah Bettia, Gurmukhtesar, etc etc, the Hindus were guilty of terrible excesses and their brutality sent a thrill of horror throughout the country But for the vigilance of the British the Provinces of India would have become the scenes of terrible carnage

People outside India have no idea of the extent of the communal tension They only occasionally see the reports of sporadic rioting but they can form no estimate of the daily increasing volume of mutual hatred and rancour It has sundered social ties which before this were very strong and cordial Joint political associations have all vanished and a few Moslems who participated in the Congress Meetings are steadily seceding from it even Ali Brothers who lent such weight and validity to the Hindu claim that some of the most enlightened Moslems who were the supporters of the Indian Congress, have left the

camp in utter disillusionment and disappointment They openly declare in their public speeches that Moslems cannot repose any confidence in the Hindu bona fides, and that they must prepare and submit their own claims to a share in their forms on the lines which would ensure their peaceful existence in India

This is the acme of wisdom gained after bitter experience of the Hindu nationalism The pugnacious tendencies of this nationalism have inaugurated an era of misery and sorrow From one end of India to the other scenes of terrible bloodshed and destruction have been witnessed by panic stricken people Sickened by barbarous atrocities Lord Irwin the present Viceroy of India made an earnest appeal to the members of the Central Legislature in August, 1927, to cultivate a spirit of mutual toleration He said that during the seventeen months that he had been in India the whole landscape had been over shadowed by the lowering clouds of communal tension, which had repeatedly discharged their thunderbolts, spreading far throughout the land their devastating havoc In less than eighteen months so far as figures were available, the toll taken by this bloody strife had been between 250 and 300 killed and over 2,500 injured A statement laid on the table of the Legislative Assembly at a subsequent date disclosed the astounding fact that from September 1927, to June 30, 1928, there had been 19 serious Hindu Moslem riots all over India

The Hindu Press launched a campaign of persistent vilification of the Moslems even the sacred personality of the Prophet of Islam was not immune from gross insults and defamations The Rajpal case threatened to engulf society in a deluge of bloodshed and had it not been to the clever handling of the delicate situation by the Punjab Government a veritable reign of terror would have resulted from it As it was there were frequent scenes of tumult and riot These violent and mendacious writings fanned the flames of communal hatred to a degree which caused the Governments of various Provinces the gravest anxiety concerning the preservation of peace The Bengal Government hastened to declare, "The rising tide of communal hatred surging from the Press threatens to engulf the faint signs of unity that '
to destroy the foundations of
worked with so much care a
statement was issued, the tone both of the Press and the public speaker, has become more inflammatory They openly assert that the Moslem settlers in India must be expelled from it and the converted Hindus who form the bulk of the Moslem population must be reclaimed, so that India may once again be exclusively Hindu These Hindu leaders have sown the seeds of trouble which are germinating all over India In their leisure hours Hindu students attend gymnasiums to cultivate physical strength which is necessary for a final life and death struggle with the Moslems

Some notion of the extent of the Hindu malevolence can be formed by reflecting on the frank though brutal expression of ideas expressed by a professedly impartial and neutral ruler described in the book entitled, '*The India We Served,*" recently written by Sir Walter Lawrence Writing about the late Maharajah Sir Partab Singh of Jodhpur, Sir Walter Lawrence says " Tolerant as he was he hated the Moslems But I never realised the depths of his hatred till I was leaving India Sir Partab had come up to Simla to be present at a farewell dinner Lord Curzon gave to my wife and myself the night be
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India I deprecated this prejudice and mentioned Moslem friends known to both of us 'Yes he said, 'I liking them too, but very much liking them dead ' and here was Sir Partab, my brother by adoption, the great and courteous Rajput gentleman, telling me with terrible truthfulness that now he had only two things to live for, to fall leading a charge of cavalry against the foes of the King Emperor, wearing the beloved brooch, and to wipe out the Moslems from India Perhaps it may be said that higher education, with which he was not endowed might have softened his inexorable attitude towards Islam but I doubt whether education will change the outlook of the two religions and permit it to be less ferocious "

This venom existed in the Hindu mind when inter communal rivalries had not reached the present stage but those who have carefully studied Indian problems know that beneath the smooth surface of British rule are smouldering the antagonisms of centuries Whatever sinister wishes are crudely expressed by the ruler of a state they find an echo in the subtle, thinly veiled speeches made by the prominent leaders of the Hindu Maha Sabha , in fact this malevolent spirit animates the entire Hindu population of India To achieve this apparently difficult object devious devices are suggested such as the economic pressure, the repeal of the Land Alienation Act in the Punjab joint electorates monopoly of services creation of Hindu Swaraj in the Provinces and the occupation of the central citadel by creating an overwhelming majority in the Legislative Assembly and the control of the Viceroy's Executive Council by making one half of it responsible to this virtually Hindu Assembly H Hindu Maha Sabha's comprehensive activities would encompass all this the Sangathan and Shudhi organisations would do the rest They would fight and decimate the Moslems and convert those who would not be worthy of their steel Education will also play its appointed role which is clearly visible in the Minute of Dissent written by the Hindu member of the Educational Committee

The Shudhi activities are responsible for the conversion of a very large number of Moslems to Hinduism and in India it is

common knowledge that they resort to all kinds of expedients in order to mislead them. Cajolery and coercion are both employed to gain the object in view.

The Land Alienation Act in the Punjab is effectively protecting the Moslem Landholders. Mr M L Darling, a distinguished civilian in the Punjab has calculated that the total debt of the Moslem peasants roughly amounts to 75 crores of rupees or [illegible] 50 millions sterling. The creditors are all Hindus. If t[illegible] it repealed 9[illegible] cally be disappropriated and their holdings occupied by the Hindu money lenders who have advanced money to these poor people on usurious rates of interest. Some idea of the methods of these Hindu creditors may be formed by those people in Europe who have studied the dealings of the money lenders with their debtors during the Middle Ages. A large proportion of the savings of these poor Moslems goes into the pockets of their creditors whose rapacity knows no bounds, even the domestic happiness of the people is not safe from them. The Hindu mind works out the problem in this way: once the poor Moslem is dispossessed he at once becomes a mere *serf* and is thrown on the mercy of the man who takes his land. He has no visible means of livelihood, his wife, his children and he himself must either starve or he must accept conversion to Hinduism, and starving people are generally supposed to accept any conditions. Once this sturdy stock disappears the backbone of the Moslem population in India will be broken.

The Hindus have thus cast their net all round in order to crush the Moslems. The Moslems on their part have to face these problems. Their efforts to conciliate the Hindus have unfortunately failed to produce the desired effect. Unity Conferences were held at Simla, Delhi, Lucknow, Benares and Calcutta and after prolonged discussions the weary peacemakers came to the conclusion that no good could come out of these unity conferences. The Moslems all over India realised that it was unavailing to make any sacrifices and to exercise self restraint if their irreducible minimum was not acceptable to the Hindus. It would be an immense aid to peace and good relations if the Hindu politicians dropped all pious platitudes and freed themselves from formulas in which they have voluntarily become entangled in order to force the Moslems to make concessions which they deem unwise or unfair. The whole question boils down to the one reflection: The Moslems cannot placate the implacable.

These complicated problems have only to be stated to show that they call for careful handling on the part of the British Government. No language that we can use will convey an adequate idea of the fears which the Moslems in India have about their treatment at the hands of an unappeasable majority. In spite of the dictates of common sense and despite the friendly

advice of H E Lord Irwin, given at Bombay before his departure for England the Hindu leaders have made no attempt to create confidence in the mind of the minority community Their intransigence, the arrogance with which they treated the legitimate and reasonable demands of the Moslems, their savage attacks on defenceless Moslems on the occasion of riots even in the Provinces where Moslems are in a majority, show that they are incapable of human [illegible] resent rivalries, cannot by any means be considered to possess a homogeneous nation

If to-day the British protection were withdrawn from India, this so called nation would tear its own body to pieces and the Civil War which would inevitably ensue would engulf the whole country in a pandemonium of bloodshed and destruction of property

The Moslems in India number 70 millions, which is more than the present population of the German Republic Are the vital interests of such a great population to be ignored? And can any British Government go back on its pledges so solemnly given to them and can that Government compel an unwilling people to accept an ideal theory of democracy and thus endanger its very existence Nothing but a series of miracles can transform the mentality of a whole nation which has been slowly built up by cruel experiences The British Government, we feel sure, will not treat its pledges as mere scraps of paper they must continue to vindicate their reputation for justice and fair play The present situation and crisis call for the exercise of the highest wisdom for any step hastily taken may become irrevocable and may put an end to the period of tranquillity and progress

Once an injustice is done in framing a constitution for a country nothing can change it except a bloody revolution But before such a violent method changes the laws of the Medes and Persians an incalculable harm shall have been done to the paramount interests of seventy millions of Indian Moslems who have reposed full confidence in the promises of the British Go[illegible] rruptedly [illegible] arbitrary [illegible] sition, for [illegible] aith which they had in the integrity of the British justice

In the Indian Central Committee the same virulent spirit has reigned supreme The Moslems where they are in a minority are not allowed to enjoy their present quota of representation in the Councils fixed by British Government with due regard to their position and importance in the country for example in Madras they are 7 per cent of the population but they are given 11 seats by way of weightage This excess of Moslems does not in any way affect the overwhelming majority of the

Hindus, but the Hindu majority in the Indian Central Committee has arbitrarily ruled that the Moslems in Madras and in fact in all the other provinces are entitled only to representation on population basis. We do not mind if a single rule is made applicable to all the provinces but when the provinces in which the Moslems are in a majority such as Punjab and Bengal come to be considered this general rule is withheld and there the Moslem majority is reduced to a minority.

We the two elected representatives of the Moslems of Bengal and the Punjab constituting the largest Moslem population of any single country protested against this oppressive and despotic behaviour but the representatives of the majority community arrogantly waved aside our vehement remonstrances and carried their resolution by the vote of their standing majority in the Committee. *Throughout the discussions in the meetings of the* Central Committee the one thing that comes out most prominently is that the Moslem interests and rights are treated with the utmost contempt and injustice.

No canons of democracy can condone the crime of reducing the majority into a minority but this has actually been done by the ruthless spirit of Hindu nationalism.

Those who defame the character of the Holy Prophet of Islam are held up as the models of virtue and those who inflict the greatest injury on the Moslems are patriots and heroes. For more than two centuries this spirit of intense hatred has openly pursued its destructive course, and has constantly been gaining in strength and volume. The climax is reached when the will *to destroy the Moslems reveals itself* in the determination to subvert the Moslem right in the future *constitution of India*, by abolishing those safeguards which the British Government have deemed so necessary for preserving the rights of the Moslems.

We do not and none in fact can condemn the efforts of the
fact the British people
l the Indians as indeed
The South Africans
ns have one after the other secured the control of their own national life. *India's* claim to the same position ultimately cannot be denied but the Hindus have to consider in their sober moments that they are not the only Community inhabiting India, Moslems number 70 millions and Depressed Classes about 60 *millions*. *Christians* and non Brahmans are not negligible quantities. The sum total of minority Communities constitutes approximately half the number of the entire population and this *half fears* that the majority Community is selfishly determined to monopolise all power in India and that it will use that power for its own advantage and to the detriment of the minorities. The Hindus must *disarm these Communities* of such fears and suspicions. *They* should understand that unless they win their confidence India's political aspirations are an empty *dream*.

The meagre description which we have given of the real intentions of the majority Community will, we hope, give some idea of the relations subsisting between the two main but rival Communities. The Moslems in their every day life experience incredibly hostile opposition from the Hindus and this has naturally made them very apprehensive concerning their future. Some prominent Moslems, realising the dangers of the position in which the Moslem Community was placed, thought it was incumbent on them to take stock of the situation and to consult the leading men of all provinces in order to enunciate a definite and categorical policy. This project was at once carried out and an All India Conference of the Moslems was convened at Delhi over which H. H. The Agha Khan presided. It was an unique and representative gathering of the most prominent and influential Moslem leaders in India. Men who had belonged to opposite camps among the Moslems were seen on the same platform in support of it. Its deliberations lasted for two days and the whole situation vis a vis the circumstances created by the acceptance of the Nehru Report by the Hindus of India was thoroughly discussed, and the following comprehensive resolution was unanimously passed, the entire gathering standing up to emphasise its importance.

RESOLUTION No. 1. ALL INDIA MOSLEM CONFERENCE, DELHI, 1ST JANUARY 1929.

"Whereas, in view of India's vast extent and its ethnological, linguistic, administrative and geographical or territorial divisions, the only form of Government suitable to Indian conditions is a federal system with complete autonomy and residuary powers vested in the constituent States, the Central Government having control only of such matters of common interest as may be specifically entrusted to it by the Constitution;

"And whereas it is essential that no Bill, resolution, motion or amendment regarding inter-Communal matters be moved, discussed or passed by any Legislature, Central or Provincial, if a three-fourth majority of the members of either the Hindu or the Moslem Community affected thereby in that legislature oppose the introduction, discussion or passing of such Bill, resolution, motion or amendment;

"And whereas the right of Moslems to elect their representatives on the various Indian Legislatures through separate electorates is now the law of the land and Moslems cannot be deprived of that right without their consent;

"And whereas in the conditions existing at present in India and so long as th[illegible] representation in various legislatures and other statutory self-Governing bodies of Moslems through [illegible] is essential in order to bring into existence a really representative democratic Government;

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"And whereas as long as Musalmans are not satisfied that their rights and interests are adequately safeguarded in the constitution they will in no way consent to the establishment of joint electorates whether with or without conditions,

"And whereas for the purposes aforesaid it is essential that Musalmans should have their due share in the Central and Provincial Cabinets

And whereas it is essential that representation of Musalmans in the various Legislatures and other statutory self governing bodies should be based on a plan whereby the Moslem majority in those provinces where Musalmans constitute a majority of population shall in no way be affected and in the provinces in which Musalmans constitute a minority they shall have a representation in no case less than that enjoyed by them under the existing law

And whereas representative Moslem gatherings in all provinces in India have unanimously resolved that with a view to provide adequate safeguards for the protection of Moslem interests in India as a whole Musalmans should have the right of 33 per cent representation in the Central Legislature and the Conference entirely endorses that demand

And whereas on ethnological linguistic geographical and administrative grounds the province of Sindh has no affinity whatever with the rest of the Bombay Presidency and its unconditional constitution into a separate province possessing its own separate legislative and administrative machinery on the same lines as in other provinces of India is essential in the interests of its people the Hindu minority in Sindh being given adequate and effective representation in excess of their proportion in the population as may be given to Musalmans in provinces in which they constitute a minority of population

And whereas the introduction of constitutional reforms in the N W F Province and Baluchistan along such lines as may be adopted in other provinces of India is essential not only in the interests of those provinces but also of the Constitutional advance of India as a whole the Hindu Minorities in those provinces being given adequate and effective representation in excess of their proportion in population as is given to the Moslem Community in provinces in which it constitutes a minority of the population

"And whereas it is essential in the interests of Indian administration that provision should be made in the Constitution giving Moslems their adequate share along with other Indians in all services of the State and on all statutory self governing bodies having due regard to the requirements of efficiency

"And whereas having regard to the political conditions obtaining in India it is essential that the Indian Constitution should embody adequate safeguards for protection and promotion of

Moslem education languages, religion, personal law and Moslem charitable institutions, and for their due share in grants in aid;

"And whereas it is essential that the constitution should provide that no change in the Indian Constitution shall, after its inauguration be made by the Central Legislature except with the concurrence of all the States constituting the Indian federation,

"This Conference emphatically declares that no constitution, by whomsoever proposed or devised, will be acceptable to Indian Moslems unless it conforms with the principles embodied in this resolution."

This resolution was acclaimed all over India which demonstrated in unmistakable terms the solidarity of Moslem opinion with regard to the various problems closely touching their tranquil and progressive life in India.

The Moslems belonging to the different stratas of society freely discussed and commented upon the cordial reception given by the Moslem Community all over India to the Royal Statutory Commission which they thought would impress the British people with the desirability of reciprocating the friendly attitude of the Moslems towards them. The unfriendly and aggressively hostile spirit exhibited by the Hindus afforded a great contrast to the Moslem behaviour.

The Moslems are awaiting with great interest the result of this co-operation and goodwill shown by them to the Statutory Commission.

SEPARATE ELECTORATE

We have tried to trace the growth of the existing animosities between Hindus and Moslems and the influence they have exercised in determining the attitude of the Moslems with regard to the constitutional problems confronting India and England. The world's history does not record a single instance in which a test of such colossal magnitude was undertaken by any people in the past. It is not so much the magnitude which appeals one as the variety and nature of the conditions for which suitable solutions must be provided. The varying requirements of various Communities tax the ingenuity of the political physician. The patient hopes that the remedy applied will not prove worse than the disease itself. His faith in the skill of his physician will rest on the efficiency of the prescriptions given after a thorough and correct diagnosis.

The British administrators brought into existence novel political conditions which have set people dreaming about their future. They felt the urge of new aspirations such as they had never before experienced. The [illegible] from the West has besides touched the chords of a new life and enthralled the very soul of the people. All honour is due to the British people who prepare [illegible] times.

We have no doubt that the practical wisdom of the British will not flag but will discover a workable scheme for the needs of the Indian peoples

The All India Moslem Conference has laid great emphasis on separate and communal electorates in its main resolution In fact it declares that the Moslems will not accept any constitution by whomsoever framed which deprives them of this safeguard The authors of the Montagu Chelmsford Report enumerate the points which must be investigated and reported on by the Royal Commission to be appointed in the year 1929 One of these points is "The important matter of the retention of communal representation" While leaving the determination of this supreme question to the careful consideration of the Royal Commission the distinguished authors give a clear lead to the Commissioners in these words "At this point we are brought face to face with the most difficult question which arises in connection with elected Assemblies whether communal electorates are to be maintained We may be told that this is a closed question because the Mohammedans will never agree to any revision of the arrangement promised them by Lord Minto in 1906 and secured to them by the reforms of 1909 But we have felt bound to re examine the question fully in the light of our new policy and also because we have been pressed to extend the system of Communal Electorates in a variety of directions This is no new problem It has been discussed periodically from the time when the first steps were taken to liberalise the Councils There has hitherto been a weighty consensus of opinion that in a country like India no principle of representation other than by interest is practically possible Lord Dufferin held this view in 1888 and in 1892 Lord Lansdowne's Government wrote that 'The representation of such a Community upon such a scale as the Act permits can only be secured by *providing* that each important class shall have the opportunity of *making its views* known in Council by the mouth of some member *specially* acquainted with them'"

We note that in 1892 the small size of the Councils was reckoned as a factor in the decisions and that the contrary view was not without its exponents but we feel no doubt that Lord Minto's Government followed the predominant opinion when in 1907, they pressed for an important extension of the Communal principle Thus we have had to reckon not only with the settled existence of the system but with a large volume of weighty opinion that no other method is feasible

Again in another place they reaffirm what is quoted above "The Mohammedans regard these as settled facts and any attempt to go back on them would rouse a storm of bitter protest

and put a severe strain on the loyalty of a Community which has behaved with conspicuous loyalty during a period of very great difficulty, and which we know to be feeling no small anxiety for its own welfare under a system of popular Government"

The Moslems have given proof of their unflinching loyalty to the British Government under extremely delicate and difficult conditions They fought against their own co religionists in spite of the proclamation of Jehad or Holy War by the Turks and despite the injunctions of their sacred Scriptures No sacrifice could be greater and yet the reward they received was so meagre It is perhaps an instance of poetical justice that they are threatened with the chances of being deprived of this special privilege

If the unexpected happens the whole of the Moslem world will ring with the stories of the Moslem cause in India being betrayed by the British people

During our tour in India not a single Moslem body or witness has asked for joint electorates on the contrary there is a strange consensus of opinion in favour of separate electorates This overwhelming unity of purpose and demand is irresistible No parochial self interest or arriere pensee has been able to damage this unanimity The 70 millions of Moslems have no trust in the bona fides of the majority Community They fear that in a system of joint electorates their representatives will be merely the mandatories of the Hindus and will not be competent enough to protect the interests of their own Community In the provinces like the Punjab and Bengal where the Moslems are in a majority the voting strength of the Hindus is greater and therefore the men returned to the Councils will not be in proportion to their actual numbers and they would besides be the nominees of the Hindus because the state of indebtedness of the rural classes is so hopeless that the creditors who are all Hindus will exercise a tremendous pressure on the Moslem voters and only such men will be elected as are acceptable to Hindus

The idea that Moslems will in their turn send Hindus of their own choice is absolutely misleading because the same causes which militate against patriotic Moslems getting themselves elected will operate against Hindus of desirable types and character securing success in the elections

We have explained above how utterly impossible it is in the face of the paucity of Moslem voters and the deplorable state of indebtedness of the rural classes to send really representative Moslems in whom they can place implicit confidence The indebtedness of the peasantry is such a tremendous misfortune that it paralyses the Moslem activities in all directions and places them at the absolute mercy of the Hindu capitalist who unfortunately knows only too well how to exploit this weakness of the Moslem masses

It is the consciousness of this formidable force added to which is the strong hope that perhaps the British Government would

support the idea of joint electorates which makes the Hindu to adopt an uncompromising attitude Numerous unity conferences produced no tangible results and the Hindus remained unmoved by argument and by appeal

The Moslems at the dictates both of reason and necessity, oppose the idea of joint electorates They find by bitter experience that their safety lies only in continuing to enjoy the right of separate and communal electorates This system has proved highly satisfactory and the Punjab Administrative Report 1907 8 bears strong testimony to it

The system of each religious Community electing its own representatives has been extended to Rewari and Ambala so as to equalise the number of Hindu and Mohammedan members This system where it has been tried in the Punjab has proved popular and successful as it removes a frequent cause of friction and secures the representation of minorities If these views held good in 1908 they have more force and reason in these anxious days The distribution of population is such in the Punjab where on the whole the Moslems are in a majority that except in 12 out of 29 districts the Moslem member returned to the Council will be the creatures of the Hindus and Sikhs *The Moslem Community* will never accept this situation which would be unavoidable if the Moslems are unjustly deprived of *the right of separate and communal electorates*

The capitalist has already reduced him to penury by usury, he is backward in education he is deficient in organisation he has practically no share in the trade of the country and if on the top of it his plight [illegible] the Hindu Maha Sabha [illegible] completed by the system of joint electorates the 70 millions of Moslems in India will suffer from a crushing tyranny both economic and political It would [illegible] hope be instructive to the uninitiated to know that the cunning device underlying the idea of joint electorates is the work of the Hindu politician who bore no burden of the Great War in fact he was busily engaged in profiteering and built up huge fortunes by getting Army Contracts While he was making and hoarding money the poor Moslem was shedding his blood in defence of the British Empire

In August 1906 a Committee of the Governor General's *executive Council was formed to consider a number of suggestions* for reform including among other matters, increased representation on the Indian and Provincial Legislative Councils This Committee "*gave special* attention to the problem of Moslem representation *As a result of their enquiries* the Committee found that the Moslems had not been sufficiently represented on the existing *Councils that the few elected* members had not been really representative and that nominations had failed to secure the *appointment of the Moslems of the* class desired by the Community " (Government Blue Book on Communal *representation in the Legislatures and Local Bodies*)

An all India Moslem deputation presented an address to H. E. Lord Minto on 1st October 1906 in which it gave frank expression to their hopes and fears and sought a positive pronouncement from the Governor General. Lord Minto in reply said "I am as firmly convinced as I believe you to be that any electoral representation in India would be doomed to mischievous failure which aimed at granting a personal enfranchisement regardless of the beliefs and traditions of the communities comprising the populations of this continent." This important and weighty pronouncement was made when Hindu Moslem rivalries and bloody conflicts had not assumed the present hideous aspect.

The second Reading of the Indian Councils Bill was moved in the House of Commons on 2nd April 1909. In a later stage of this debate Mr Asquith (afterwards Lord Asquith) said "Undoubtedly there will be a separate register for Moslems. To us here at first sight it looks an objectionable thing because it discriminates between people and segregates them into classes on the basis of religious creed. I do not think that is a very formidable objection. The distinction between Moslem and Hindu is not merely religious but it cuts deep down into the traditions of the historic past and is also differentiated by the habits and social customs of the Community."

We may add more authorities in support of our contention but we think it is enough for us to say that practically all responsible British Statesmen have seen that it is natural that the Moslems should have the instinctive apprehension of dangers and difficulties of their position and they accordingly provided safeguards against them. We may frankly say that anything built on the theory that they are non existent or insignificant is doomed to failure.

The British Government are themselves pledged spontaneously and by their own free will to make good the declarations made by their predecessors. The Moslems thus hope that the obligations into which Great Britain has entered will be faithfully discharged.

The Hindus constantly decry against the insistent demand of the Moslems for separate and Communal electorates asserting that such a system is an outrage against democratic principles. We have shown above that these pious platitudes are merely a mask to cover their deep rooted design to destroy the Moslems in India. They use these *catch* phrases in order to justify their arguments to those who believe that India is immediately ready to assimilate all western theories of democracy and that its population is perfectly homogeneous. We would not doubt the honesty of intentions but we would like them to pause and reflect whether he is not falling into the net of the Brahmans when he accepts his brand new ideas of democracy. He ought to know that the entire Hindu social system is built on caste inequality and could the Brahmin honestly say that democratic

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ideas as understood in the West were acceptable to a population which was graded in innumerable castes and accepted their inequalities as the decree of divine Providence which regarded about 60 millions of Hindus as "untouchable"

There is no society in the world so incredibly honeycombed in social inequality, grades and degrees of touchability as the Hindus and yet they masquerade before the Western people as a democratic nation

It would be highly instructive to those who would like to be in possession of full information before definitely forming their opinion that even before the existence of the present Hindu Moslem tension and when the relations between the two Communities were cordial the Moslem candidates had no chance of election in a mixed electorate

The Blue Book Vol I published in 1905 containing the proposal of the Government of India and Despatch of the Secretary of State says about Madras on page 16—"The statistics from 1893 to 1906 show the professional middle class holding 66.6 per cent of the elected seats, the landholders [illegible], European Commercial Members 21.1 and the representatives of Indian Commerce [illegible]. No Mohammedan has succeeded in obtaining a seat by election"

Dealing with Bombay it says—"The statistics from 1893 to 1906 show that the professional middle class obtained 50.7 per cent of the election seats, the landholders 22.6, the Mohammedans 11.3. Whereas according to the population their percentage ought to have been [illegible]" Continuing it says—"As regards Mohammedans the opinion sent up by the Bombay Government seems to indicate that nothing but separate representations will satisfy the Community and that they resent the idea of nomination"

About Bengal it says—"The statistics from 1893 to 1903 show that 52.5 per cent of the elected members have been drawn from the professional middle class, 13.2 from the landholders, 5.7 from the Mohammedans. Whereas according to the population they ought to have been 18 per cent"

About the United Provinces it says—"Statistics from 1893 show the professional middle class holding 50 per cent of the elective seats, landholders 20.6, Mohammedans none" According to the population they ought to have been 14 per cent. Continuing it says—"In commenting on the working of the existing regulations Sir James La Touche observed two years ago that no Mohammedan had ever been elected by a representative group"

About Eastern Bengal and Assam it says—"Although the Mohammedans form a majority of the population of the province, they are at present comparatively unorganised, and they can only be adequately represented by means of a special electorate"

The above results and experiences as embodied in official documents are extremely illuminating and should convince all

who wish to reach correct conclusions in order to deal out justice to all If the result of joint electorates was so utterly disappointing and unfair in the case of the Moslems from 1893 to 1906, what would it be in these days when inter communal strife and hatred is verging on civil war

An unique instance of their perversity is enough to disillusion the British Government While discussing the constructive proposals for various provinces in India the Hindu members in the Central Committee by their majority votes decided that the representation should be on population basis and this principle was adhered to in the case of all provinces in which the Hindus are in a majority, but when we discussed the Punjab in which the Moslems are in a majority, the Hindus made a volte face and reversed this principle On our motion that the Moslems in the Punjab should get representation on population basis they refused it and on division the three following voted for the motion —

Sir Arthur Froom
Sir Zulfiqar Ali Khan
Dr A Suhrawardy

Against the motion —

Sir Sankaran Nair
Sir H S Gour
S B Uberoi

This tie created an awkward situation for the Hindu members, but the chairman Sir Sankaran Nair used his casting vote, i e he used his vote twice and thus defeated the Moslems, in fact the Hindus destroyed the very principle which they had established

The manifestation of this malevolent spirit is but a symptom of what might happen if the safeguards provided for the minorities are abolished

No wise man under these circumstances would think of abandoning the safe course which has been so far followed It is undeniable that it removes all chances of clash and gives the minorities that sense of security which is so essential for the peace of a vast country with her diversified nationalities and her racial and religious differences

In very truth there are no signs of the advent of that unity which is the first essential to the creation of a modern state

If no arbitrary methods are adopted to force an unwilling people to accept a principle which they consider fatal to their very existence in India and if the adoption of such principles is left entirely to their own choice and determination all may reasonably hope that ultimately a workable corporation between Hindus and Moslems may give a chance for the re establishment of inter communal peace, and the convalescent Indian world may swiftly regain health

The rights and claims of the Moslems to a careful study of their special interests and legitimate sentiments are sacred. The fruits of reasons and the benefits of justice must not be denied to them.

It is necessary that before the national life as a whole can work out a basis of self consistency and harmony, these constituents problems will have to find their own solution.

WEIGHTAGE IN THE LEGISLATIVE BODIES FOR THE MOSLEMS

On the occasion of the second Reading of the Bill in the House of Lords the Secretary of State Lord Morley, said—"The Moslems demand three things. I had the pleasure of receiving a deputation from them and I know very well what is in their minds. They demand an election of their own representatives to these Councils in all the stages just as in Cyprus, where I think Moslems vote by themselves. They have nine votes and the non Moslems have three or the other way about, so in Bohemia where the Germans vote alone and have their own register. Therefore we are not without a precedent and a parallel for the idea of a separate register. Secondly they want a number of seats in excess of their numerical strength. These two demands we are quite ready and intend to meet in full."

Lord Morley than whom there has been no greater Statesman and Scholar and a staunch Liberal during and after the Victorian era felt compelled to recognise the justice of the Moslem case. He saw the imperative necessity of saving a Community from the onslaught of a majority which desired selfishly to satisfy its own lust of power irrespective of the claims of others.

An important Community which for eight hundred years had been the supreme rulers of India and which but for the withdrawal of Ahmed Shah Abdali after Panipat would again have regained paramount power in this country could by no magnanimous people be reduced to the status of serfs and dependents of noisy pen drivers. The Moslems are no doubt in a minority in this country but their collective total of population is so great that no single country of the size of India has such a large number of people. It is more than a single nation of any country in the world. It belongs to a religion which has world wide prestige and which still has voice in the determination of world history and we venture to say that if the British were to withdraw from India the Moslems would soon reassert their authority.

If the Moslems are given weightage only in those provinces in which their population falls short of 20 per cent, it would not reduce the overwhelming majority of the Hindus to any appreciable degree and by way of reciprocity the Moslems would be prepared to concede to the Hindus the same privilege which

they demand for themselves, i e, weightage where their population is below 20 per cent for example in N W F Province, and Baluchistan Lord Minto in his reply to the Moslem deputation admitted the undeniable political and historical importance of the Moslems, " And you justly claim that your position should be estimated not only on your numerical strength but in respect to the political importance of your Community and the service it has rendered to the Empire I am entirely in accord with you "

Summing up their conclusions with regard to the representation of the Moslem Community and the necessary weightage to be given to it, the Government of India said—

> " (4) Though a majority can always impose its will upon a minority, the effectiveness of a minority depends upon its being large enough to have the sense of not being entirely overwhelmed "

The Moslems in every province number by millions except in Central Provinces and Burma where they are only about half a million in either case No sensible man would place these millions of human beings in a position of utter insignificance Apart from the justice of the claim the Moslems will show their sense of fairness by meeting the Hindu demands to the same extent in their majority provinces by way of reciprocity

It must be clearly understood that the Hindus do not require any weightage in the Punjab and Bengal because their numbers in these two Provinces are almost on a parity with those of the Moslems The Hindus in these places neither need nor can the Moslems afford to give them any weightage there

The Moslems in the Punjab constitute 56 per cent of the entire population and in Bengal about 54 per cent in both cases the margin is so narrow that it would be extremely risky for the Moslem majority to yield any ground and it would be unreasonable on the part of the Hindus to ask for any addition to their numbers Any effort to extort any seats from the Moslems would be a deliberate attempt to create Hindu majority even in the Punjab The Moslems by their demand do not reduce the Hindu majority to minority and not even to equality

The majority Report of the Punjab Committee has treated the Moslem Community with great injustice They have reduced their majority to a single vote i e, instead of 56 per cent they want 51 per cent representation in the Legislative Council and the same ratio will probably be allowed in the local bodies The Moslem Press and the Moslem organisations have angrily repudiated this proposal We desire to know if the Hindus would accept the position of their majority in any province being reduced to a single vote We vehemently oppose this idea and strongly support the demand that full Moslem share of representation in the Legislative Council as well as in the local bodies should be conceded to them

MOSLEM REPRESENTATION IN THE PROVINCIAL CABINETS

The adverse winds of communal bitterness and conflict compel us to strongly press the desirability of Moslem representation in the Cabinets of the various provinces As we have advocated provincial autonomy and the abolition of dyarchy therefore the Governments of these provinces will be composed entirely of Indians who will be the elected Members of the Councils In most of the provinces the Moslems are the minority Community, and even with the excess seats given by way of weightage they cannot wield such an influence as to harass the majority Community

We consider that the inclusion of a Moslem Minister in the Cabinet is essential, for the simple reason that the population of Moslems in every province spreads over millions, wise and far seeing statesmanship would realise that these millions of people, which in any country in Europe would have great deference nay even respect paid to their wishes must not be neglected and *crushed by the insensate bigotry of the majority Community*

We have no hope that the confidence which we may place in the honesty and public spirit of the majority Community will at all be justified The evidence given by the Moslems in all the provinces strongly urge that the Cabinets should comprise the representatives of their people In fact under the present arrangement the Governments of practically all the provinces have Moslem Ministers and member There is great apprehension in our minds that if things are left to the discretion of the Chief Minister who would inevitably be a Hindu in most of the autonomous Governments the Moslems will have nothing to expect especially when the constitution does not provide for it It may be said that this would be a constitutional dereliction or anomaly but the most cogent reason against this assumption always is that India's case is unique to which there is no parallel in the world and therefore the special merits of this case call for special treatment No flight of imagination can deem it possible that Westminster model will fit in the special conditions of India and some device has to be thought of for meeting the situation Once it is realised that millions of people cannot be left to the tender mercies of the revengeful rival Community then the panacea can be discovered

The supreme ideal to be constantly kept in view is the smooth and harmonious progress pursued in a spirit of mutual goodwill and devotion to common heritage This in our opinion is only possible when the various elements of the population feel the urge of common interest and common interests cannot appeal to those who are weak and are oppressed by the strong

Those who will deal our Report will we feel sure be interested to know how the Hindu mind works in obedience to preconceived policy In the meetings of the Indian Central Committee we proposed that in the Cabinet of the autonomous

Madras Presidency, Moslem representation must be included, and although we appealed to the Hindu members from various points of view of expediency, present practice and the dictates of astute statesmanship which would carry a dynamic minority with it, but our cry failed to secure a sympathetic response The argument which they advanced against us was that they did not want Communal Cabinets but the Chairman Sir Sankaran Nair, conveniently forgot that he had included the following provisions in his own proposals for the autonomous Punjab —

4 "The Cabinet shall consist of one Moslem, one Hindu and one Sikh Minister"

5 "The Governor shall nominate each Minister separately from the elected members of the Legislative Council He may also nominate a fourth Minister as a Member of the Cabinet, not on Communal grounds, but for his special qualification The fourth member shall be a Sikh or a Christian an official or non official"

6 'It shall be open to the Governor to assign the administration of the Magisterial and Police Departments to any Minister, except to a Moslem or a Hindu The allotment of all other subjects shall be determined by the Cabinet"

At the Meeting however he moved the following resolution —

That the Cabinet should consist of one Moslem, one Hindu and one Sikh Minister and also a fourth Minister, who shall be appointed not on Communal grounds, but for his special qualifications and who would be neither a Hindu nor a Moslem but who may be an official or a non official"

This resolution fell through because Sir H S Gour's amendment was carried but his numbers 4 5 6 are an epitome of his deep seated and innermost antipathy We have stated above that he and his Hindu colleagues flatly refused to entertain our proposal for including a Moslem Minister in the Cabinets of the various provinces obviously with the idea of inaugurating a purely Hindu Swaraj which would deal with millions of Moslems in every province in strict adherence to the preconceived and comprehensible plan of either reducing the Moslems to absolute slavery or wiping them out altogether

When he did not want any Communal Cabinets and left it entirely to the majority leader in the Council to form his Cabinet, why did he lay down another and contradictory law for the province in which the Moslems were in a majority and in which they had a chance of forming their own Cabinet according to the principle enunciated by him There can only be one conclusion and no other that he does not want even democratic laws to be observed in the case of the Moslems for the fear that by virtue of it the Moslems will enjoy the rights of majority According to his scheme in the Cabinet of the Punjab province there would be one Moslem one Hindu and one Sikh Minister and the fourth

put down by the heavy hand of the Military, can any calculation be made of the terrible havoc in life and property which it would necessarily involve. We venture to utter these warnings with the full sense of responsibility, and our duty towards our Country ends here.

SEPARATION OF SIND FROM BOMBAY

The demand for the separation of Sind from Bombay has been insisted upon for a long time.

From all points of view political, religious, liguistic and racial, the expediency appeals to those who seek practical solutions for intricate problems. The conditions calling for a separate unit exist in almost ideal form there.

It has a homogeneous population: from religious and racial standpoints there is no other province in India which is so free of impediments in the way of carving it out as a self contained area. The population of the Moslems is overwhelming, and the Hindu element is only nominal. But this great population of the Moslems is kept down by the dwarfing influence of the Hindu masses in the Bombay Presidency, who deliberately adopt every means to repress the Moslem aspirations for self expression. The Moslem masses realising their helpless condition in the face of Hindu capitalists who carry on a systematic policy of exploiting and dispossessing them of their lands see no other way of emancipating themselves from the clutches of these people except by raising a distressing cry for separation. In fact if separation does not come soon the plight of the Moslems would indeed be pitiable. The authors of the Montague Chelmsford Report rais no difficulties in the way of remodelling provinces and territories. "But we are bound to indicate" they observe "our own clear opinion that wherever such redistributions are necessary and can be effected by process of consent the attempt to do so should be made."

The consent of the vastly superior number of Moslems is not required as they demand it knowing that their prosperity and self government cannot come unless they burst the chains which strangle their life.

The Hindu numbers are so insignificant that their acquiescence is hardly needed. It would be like asking the Germans in Poland whether they would object to the creation of an independent Polish State. The Moslem population of that province suffers from all the evils inseparable from the conditions of a minority Community whereas by virtue of their numbers and wealth they are entitled to form their own Government.

The Bombay Government raise no serious objection to its separation they only feel doubtful of the success on the score of finances.

This difficulty however is bound to disappear in course of time. The great productive Sukkur barrage is calculated to pour money into the coffers of the Sind Government, and the cost of new administration will be met out of the enhanced revenues. Pun-

jab's wealth is due to its irrigational schemes, and we think similar conditions are in store for Sind

The All India Moslem Conference held at Delhi passed an unanimous resolution in favour of its separation Even if for a short time a part of the expenditure is met out of the Govern ment of India revenues it would create no new precedent Burma was fed for a long time out of the Indian revenues We strongly urge the Government to constitute Sind a separate province and grant it a constitution From the political point of view it is most desirable that Sind should have an autonomous state If Sind Punjab Bengal North West Frontier Province and Baluchistan have their own Governments which would necessarily be Moslem in character with the rest of the Indian provinces having Hindu Governments it will creat a balance of power in India which is highly desirable

This rearrangement of political power is claculated to bring peace to the country because inter Communal relations will become more harmonious and stable and reciprocal regard for the welfare of their own nationals in the two divisions will stay the hands of those political firebrands who by their unbridled behaviour poison the fount of inter Communal amity Either part will be anxious to inspire confidence in the mind of the other by treating its co religionists with justice and fair play

In fact this arrangement is far better than the scheme of joint electorates which according to Hindu sophistry are supposed to bring unity to the Communities but which we are bold to say will bring nothing but unhappiness

We urge that this avenue of peace may be thoroughly ex plored

REFORMS FOR THE N W FRONTIER PROVINCE AND BALUCHISTAN

The famous announcement made on 20th August 1917 in the House of Commons embraced the whole of the Indian Empire from Karachi to the borders of China in Burma and from Alimasjid on the borders of Afghanistan to Cape Comorin It did not exclude any province from the fertilising rain of reforms which it brought and made no invidious distinction between province and province All were equally treated only Burma and N W Frontier Province were for the time being left out of the operation of the Act of 1919 Concerning Burma the distinguished authors said in the report —"Whenever pro posals are published there will be an opportunity for the Govern ment and people of Burma to say how far they regard them as applicable to their case We therefore set aside the problem of Burma's political evolution for separate and future considera tion" And with regard to the N W Frontier Province and Baluchistan they said ' For reasons of strategy the two frontier provinces must remain entirely in the hands of the Government of India But inasmuch as our guiding principle where the principle of responsibility cannot yet be applied, is that Government by consultation with the representatives of the

people, we think that in some if not all of these areas it would be well to associate with the personal administration of the Chief Commissioner some form of advisory council adjusted in composition and function to local conditions in each case This question we would leave to the further consideration of the Government of India

Soon after the promulgation of the reforms according to the Government of India Act, 1919, the Burman people seeing that their fate was still hanging in the balance set up a violent agitation as a result of which they were granted a full fledged constitution as in the other provinces of India and the agitation died down and normal conditions were restored to this distracted province The N W Frontier Province living under the iron heel of the Frontier Regulations could not raise its voice to the same extent as Burma did but there were audible mutterings of thunder which seemed ominous The Government of India appointed the Bray Committee to enquire and report as to the application of reforms to this province The Committee made a thorough investigation They proposed that there should be a council with an elective majority a minister and a member The minority to be protected The Province they propsed should continue to remain under the Government of India The proposals have ever since remained in a state of suspended animation or rather they never were vivified When we visited the Province in November 1928 we had the advantage of knowing the views of the people there Our definite conclusions after taking the evidence were that this Province should get the benefit of reforms just as the other parts of India did and that any further delay in granting them to it would lead to great discontent and agitation

An old Afridi chief who entertained the Commission at tea at Jamrud addressing Sir John Simon said "You are going to give reforms to India, you must not forget us for we also want them The fact must not be lost sight of that the peace of India depends on our attitude " There were several influential deputations whose members spoke in a highly earnest manner angrily demanding reforms The Khans no doubt opposed the idea of the introduction of reform into this province But in these days it is mostly the voice of the people which carries weight That the soul of the Frontier people is aflame no one doubts Burma on the Chinese Frontier, they know has got a
[illegible]

for their exuberant
British Government an[illegible]
in other provinces The people of the N W Frontier Province are a virile and manly race and they have as much right to

enjoy the blessings of civilisation as any one else in India The Government has remained immovable long enough, and more delay in meeting the desires of the people will produce dangerous results the responsibility for which will entirely rest with the Government

The conflict of intellect and the success of diplomacy in Central Asia and in the countries bordering on the Indian frontier depend largely on the preference which these people will give to the British or to the Russian and therefore the British Government should give close attention to the psychology of the people and the spirit of the age The satisfied people of the N W Frontier Province will help in the spread of pro British mental contagion in the regions where British and Russian influences struggle for supremacy Apart from these considerations it is always a sound policy and one which morality strongly sanctions that no unfair discrimination is made between these people and the rest of India

The question of finance obtrudes itself on our attention in this Province also We think that the obvious duty which the frontier men perform should entitle them to the gratitude of India A sum of 18 lakh used to be paid to the Amirs of Kabul as subsidy before the independence of Afghanistan was recognised Cannot that amount be allocated to the Provincial administration for meeting the enhanced expenditure? In any case the growing revenues of the Central Government as Mr Layton forecasts will prove sufficient to meet the demand It cannot be forgotten that the Frontier Enquiry Committee have strongly recommended the extension of reforms to this province and the Indian Legislative Assembly passed a resolution in favour of it at Delhi in 1925 after a sensational speech by the late Lala Lajpat Rai in which he explained that the Hindu members gave their whole hearted support to the grant of reforms to the Frontier Province He further stated that Government often sought shelter behind the idea that the Hindus opposed the reform movement and therefore as a neutral and impartial Government they could not think of favouring the Moslems at the expense of the Hindus But now as the Hindu representatives of all India supported the reforms the Government had no excuse left for refusing the demand of the Moslems He said he was sure that even under these circumstances when the Hindu attitude is no longer ambiguous the British Government will still avoid the issue and deny the right of the frontier people to the reforms

We think that after this speech the Government have no alternative but to close this controversy and prepare a liberal scheme of reforms for the N W Frontier Province We think however that the people there are not yet ready to receive the brand new constitution which we are devising for the rest of India but we strongly advise Government to give the Province the benefit of the Montagu Chelmsford Reforms

SERVICES

Modern education imparted in Indian schools and colleges has awakened the soul of the young men and has given them a new sense of self esteem In recent years the speed of education has been so accelerated that the output is far in excess of actual demand for recruitment in public services In India the object with which the parents give education to their children is primarily for the purpose of securing posts in Government service Lack of factories and industries where a large surplus of educated young men could find employment has thrown the entire weight of educated men on the shoulders of Government officials It is quite clear that government offices can by no means absorb an unlimited number of young Indians and when *these educated seekers of jobs fail to get employment their dis* appointment exceeds all bounds A great part of the agitation against Government is due to this But education cannot be restricted and therefore avenues for accommodating the young sons of India must be explored

Education capacity and efficiency must have their reward in power in India as elsewhere But unfortunately the communal poison destroys all sense of fairness and goodwill and therefore the minorities in India clamour against the monopoly of the services by the majority community Complaints which are constantly made to the heads of departments bring no relief as those who occupy the citadel prevent the newcomers from entering it In most of the departments of Government jobbery and open bias are rife If this state of affairs continues there will be no amelioration in the condition of the minority com munities An impartial authority examining the list of employees in most of the departments of Government including the High Commissioner s office in London will find that it is the majority community which enjoys the loaves and fishes of the services That this unfairness must cease is the desire of all who wish to do justice to the minorities

The British civil servants have established a high standard of honesty and efficiency and India has every reason to be grate ful to this devoted band of zealous workers Every department is thoroughly organised and regularity and despatch in business are scrupulously maintained The association of Indians with such men has given them a high sense of honour and responsi bility In the meetings of the Indian Central Committee efforts were made by the Hindu majority to make the services a preserve of their own young men by means of provincialising the all India services They hope that as in almost all the provinces it would be the Hindu Swaraj therefore it can impose its will effectively to exclude young men of minority communities from these provincialised services We however strenuously fought for the cause of the minorities and got the words " adequate and effective representation of minorities " inserted in the resolution

We are however afraid that the majority community will appropriate most of the judicial and executive posts and will thus greatly harass the minorities. On the occasion of communal fights if most of the official are Hindus the Moslem and other minorities can expect no justice. We therefore think that till the Hindus and Moslems compose their differences the neutral element must remain to deal out equal justice to all. On occasions of Communal riots both Hindus and Moslems have earnestly demanded that British Police Officers should be appointed to investigate the cases and that British Magistrates only should be allowed to try the accused and therefore the retention of the neutral element in such services is necessary. The Lee Commission Report prepared a workable scheme but in view of the insistent demand of the Indian public we would recommend that the Indianisation of the Service should be hastened.

We propose that in every province there should be a public service commission which would regulate recruitment. We further recommend that one third of the available vacancies should be filled by nomination in order to redress communal inequalities.

CENTRAL GOVERNMENT

Having conceded practically full autonomy to the provinces with the authority to run their own administrations without the uncalled for interference by the Central Government there remains the most important work of constructing the Central Government itself which would keep India united and prevent it from relapsing into confusion and chaos. The past history of India first during the purely Hindu period and later during the Moslems domination lasting for nearly eight hundred years in the frequent changes of dynasties except when the Moghuls ruled the country brings into prominence one unmistakable phenomenon that whether it was Hindu or Moslem ascendency the weakening of the Central authority always brought into existence a co[illegible]
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the central government the whole fabric of administration may crumble down. Afghanistan and China are experiencing terror without end and the progress which had been made lately in Afghanistan has been wiped out only because the controlling hand in the capital became paralysed.

The United States of America, much larger in area than India and with such an elaborate system of democracy, has the wisdom to realise the imperative necessity of investing the Central Government with extraordinary powers of control over the States comprised in the Commonwealth. It bristles with vetoes and limitations and yet the citizens of America do not look upon them as undemocratic.

If on account of communal differences or some other cause the autonomous Government in a province of India fails to function then who is to come to its rescue? In fact in a country like India with all the differences of race, language and religion and with the bitterest hatred against each other pervading the whole country, neither can the country be kept together nor the peace and progress of the minorities be guaranteed without effectually maintaining the authority of the Government of India. Even in the interests of provincial autonomy [illegible] en the chances of deadlock and to diminish th[illegible]alities for mischief of the majorities [illegible] ne record set up a strong Government in the centre to which all can look for protection and justice. Only in this way we think can the continuity of provincial autonomy and of safeguarding the essentials of future progress be possible. While preserving the functions of the Government of India as they are we propose changes in its structure.

At present the Governor General's Executive Council consists of six members and we have reason to believe that these members control huge departments and find no time to take part in the multifarious activities of the country and to remove those asperities which are inseparable from the life of rigid isolation. These members themselves complain that they are overworked. We therefore propose both in the interests of greater efficiency and quicker despatch of urgent business that the number of these members be raised to ten, out of these five should be Indians, three Hindus and two Moslems. The selection of these men should rest entirely with the Governor General. It would in our opinion be expedient if the Governor General make the selection from the elected members of the Central Legislatures but if men of requisite ability and number are not available there then he may go outside this limit.

PROVINCIAL AUTONOMY

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the central government the whole fabric of administration may crumble down Afghanistan and China are experiencing terror without end and the progress which had been made lately in Afghanistan has been wiped out only because the controlling hand in the capital became paralysed

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Provincial Autonomy

The long consecrated phrase "The moral and material progress of India" affords indisputable evidence of the strenuous labour of the administrators of India on the one hand and the rise of the people in the higher spheres of national life [illegible]

other Neither the foreigner nor the Indian now looks upon this vast country as an eternal nursery In fact the notion derived from the intensity of political life impresses even the superficial observer with the idea of a rapidly advancing and developing India The Indian Universities are producing in daily increasing numbers orators politicians business men and journalists who are conscious of their needs and have voices to give expression to them in a most effective way Close contact with Europe and the literature of the West has sharpened wits and brought a whole world of new aspirations within the Indian's vision It is only too natural that this awakening should bring with it new needs and wants which necessarily are in conflict with the existing situation but astute statesmanship points to the imperative necessity of meeting the insistent call of the Indians for greater liberties in a spirit of sympathetic and liberal response Any evasive policy is sure to wound vanity and become an accumulating source of irritation and discontent

So far as human prescience goes the desirability of India and Great Britain cementing the foundations of their mutual confidence and friendliness is undeniable and this is only possible if the British statesmen continue perhaps in ever increasing measure their effort to unfold before the eyes of the Indians a wider vista of constitutional reform and national liberties The East is no longer unchanging in fact the ambition of the Eastern nations to reach the stage of European evolution in the shortest time possible is most amazing Indians look round and see neighbouring nations engaged in organising their national affairs without much extraneous aid India it is true is peculiarly situated and her circumstances have no precedent in recorded history and therefore her march towards the goal of her ambition must be supported by some strong and protecting agency Egypt has got her independence and Iraq is promised a similar destiny in a short time

We have not the least doubt that if Indian unity comes and intercommunal confidence is restored England would put India on the same pedestal as the other constituent parts of her Empire but thinking Indians themselves do not consider that in the present state of intercommunal hatred and antagonism it would be quite safe to exclude the one authority which would be strong enough to separate the fighting nations in India But whatever reasons there may be for apprehending disaster if the strong but friendly hand is removed there is no denying the fact that both Hindus and Moslems have set their hearts on bringing the country into line with modern progress

In our opinion British statesmen must satisfy this demand and the best way to inaugurate self Government is to instal responsible Government in the provinces Speaking of autonomy in the provinces of India

"The provinces are the dor
the progressive realisation

taken Some measure of responsibility should be given at once, and our aim is to give complete responsibility as soon as conditions permit This involves at once giving the provinces the largest measure of independence legislative, administrative and financial of the Government of India which is compatible with the due discharge by the latter of its own responsibility "

In accordance with the spirit of the above opinion and also in response to the clear enunciation of policy by most of the provincial Governments especially when dyarchy disappears, the provinces of India should have autonomous Governments The provincial committees are also practically unanimous on this point We therefore strongly recommend that complete responsible Government should be conceded to the provinces One thing which we most strenuously advocate and emphasise is that the Moslems must not be deprived of the right of forming their own Governments in their majority provinces Moslems in Bengal Punjab North West Frontier Province and Sind have every right to run the administration in these provinces No principles of democracy statesmanship and justice can deprive them of this privilege The Moslems we are certain will manifest public spirit and practical good sense and wisdom by satisfying the claims of the minority communities but they will under no circumstances consent to be reduced to minority or even to equality in these provinces India s peace and progress can only be ensured if the just and legitimate claims of the Moslems are vindicated The Moslems cannot tolerate two principles being applied to them Wherever they are in a minority they will accept the majority claim to constitute its own Government and wherever they (Moslems) are in a majority they must similarly enjoy this democratic right Any failure to scrupulously adhere to this democratic principle will not only be extremely invidious but will destroy that sense of trust in the justice and impartiality of the British people which has established their great prestige among the nations of the world

SECRETARY OF STATE S COUNCIL

In view of the enormous change in the administrative machinery of the provincial Governments and the consequent reduction of control of the Central Government over the principles and details of the autonomous Governments of these provinces it is evident that the Government of India would in their turn be freed from that close and constant interference which the Secretary of State and his council now exercise

The work at the India Office will ostensibly decrease both in quality and quantity The Secretary of State s Council consists of eleven members who according to their evidence given before the joint and free conference are by no means overworked in fact the want of sufficient work is seriously felt by all There is no doubt that the British Parliament will remain the supreme authority and arbiter in matters concerning India but there will

henceforth be fewer opportunities of intervention in the affairs of that country by the Parliament.

It therefore follows that the Secretary of State's Council, which is admittedly an unwieldy body, should be greatly decreased in its personnel We think that the future Council should consist only of four members with the Secretary of State as the fifth and President of the Council Out of the four members there should be two Indians, one Hindu and one Moslem We want this small Council with equal numbers of European and Indian members for the reason that important matters will still be dealt with by it and a more or less impartial and neutral body is essential for giving right decisions Provincial Governments under the new Constitutions will be controlled by capable and energetic Indians, and we hope that the strong claims of patriotism will compel them to realise the necessity of running the administration in the interests of all, and that communal bias will neither vitiate the intercommunal relations which are bitter enough already, nor pollute the comparative purity of the administration which they will take over But we cannot yet say how the minorities in India will be treated by the majority community which so far has failed to inspire trust and confidence in their minds

The future alone will show whether the safeguards which we think are essential at present are needed or not, and therefore we recommend that in order to give the minorities a sense of security and continuous progress an impartial authority may still remain in an atmosphere free from local influences and intrigue, and meet the exigencies of the situation in India with the strictest sense of justice

We desire to disassociate ourselves entirely from the remarks made in paragraphs 3 and 8 and elsewhere in the Report of the Committee with regard to the boycott of the Indian Statutory Commission and its effect on the Joint Free Conference

ZULFIQAR ALI KHAN

A SUHRAWARDY

London,

7th October 1929

I may add a supplementary note

A SUHRAWARDY

MEMORANDUM BY SIR HARI SINGH GOUR, Kt., M.L.A.

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EXPLANATORY REPORT

FOREWORD

1 In drawing up this note I wish to make my position at the outset clear All the points recommended by our Committee have been the subject of detailed discussion at our meetings which lasted for several months They were settled in a series of resolutions which (with a few exceptions) were passed at my instance Those in which I have the misfortune to differ from the majority of my colleagues are separately set out in my minute of dissent These include —

(1) The Separation of Sind

(2) The retention of the All India Services in the Presidency of Madras

(3) The establishment of a Second Chamber in the United Provinces

(4) The Reservation of Law and Order in the Presidency of Bengal, and

(5) The Centralization of the permanent settlement therein, and one or two minor points to which reference has been made in this note

2 Being thus in general agreement with the majority of my colleagues in the conclusions which they have reached, I feel that the report of the Indian Central Committee should set out in detail the reasons by which these conclusions are supported I also feel that following the line of other similar constitutional documents the Report must embody a historical retrospect of the constitutional developments in the country and set out in detail the reasons why other schemes had to be rejected and why that recommended commended itself to me and my colleagues who voted for it I have, therefore subjoined this explanatory memorandum in support of my recommendations, appending a dissenting note on the few points upon which I happen to differ from the majority of my colleagues

CHAPTER I

General Introduction

The Indian Central Committee—its constitution

3 It is provided in section 84A of the Government of India Act that on the expiry of 10 years from the time of the coming into force of the Government of India Act 1919 (hereafter to be called the Reforms Act), a Commission should be appointed "for the purposes of this section"

"(2) The persons whose names are so submitted if approved by His Majesty, shall be a commission for the purpose of inquiring into the working of the system of Government the growth of education and the development of representative institutions, in British India and matters connected therewith, and the commission shall report as to whether and to what extent it is desirable to establish the principle of responsible government or to extend modify, or restrict the degree of responsible government then existing therein including the question whether the establishment of second chambers of the local legislatures is or is not desirable

"(3) The commission shall also inquire into and report on any other matter affecting British India and the provinces which may be referred to the commission by His Majesty"

Lord Birkenhead's views on the inquiry

4 Accordingly after a formal amendment of that section legalizing the acceleration of the date for the appointment of a commission a Statutory Commission was set on foot by a Resolution moved by Lord Birkenhead the then Secretary of State for India *in the House of Lords on 8th November 1927* The personnel of the commission comprising of seven members was drawn solely from the two Houses of Parliament In the course of the debate however it was clearly stated that as the British Parliament had appointed a Commission of seven members it was open to the Indian Legislature to appoint a Committee of their own to co operate with it and that the two Commissions in co operation with each other would collect ... a report to be submitted to their ... which should form the basis of ... rliament in accordance with the

Indian Response

5 Accordingly, in February 1928 Sir Basil Blackett then Leader of the Legislative Assembly moved a resolution inviting that body to concur in the procedure for the appointment of its own members by election to co operate with the Statutory Commission The Resolution was however thrown out by a narrow majority on the ground that it was wholly opposed to the constitution and scheme of the Statutory Commission A similar motion in the Council of State was however passed with the

18 & 19 G. V Act

result that on August 17 1928 it elected three of its members as its *quota* of the Indian Committee to be set up in accordance with the intention of the Secretary of State as expressed in his speech in the House of Lords to which reference has already been made

6 But as the Legislative Assembly had already thrown out a similar motion His Excellency the Viceroy proceeded to complete the Committee by nominating five members to which another member of the Council of State was added The personnel of the Indian Central Committee was thus completed partially by election and partially by nomination by the Viceroy

7 There remained the question of its relation to the Royal Commission Eliminating for the present the various stages through which it passed its powers and functions were defined by Sir John Simon on the one hand and His Excellency the Viceroy on the other the correspondence between the two finally culminating in giving the Indian Central Committee co ordinate jurisdiction in so far as the two became merged in a Joint Free Conference a term which has been throughout applied to the English and Indian members acting in concert while taking evidence both in India and in England At the same time the individualities of both the Commission and the Committee remained unimpaired and the Committee continued to function as an independent body co operating with the Royal Commission under the presidency of Sir John Simon On the conclusion of its labours it was said that the Indian Central Committee was free to deliberate apart from the Royal Commission and to draw up its own report which would be printed as an appendix to the Report of the Royal Commission

Indian Central Committee deliberation independent of the Royal Commission

8 The independence of the Indian Central Committee becomes thus clear as it was to deliberate independently of the Royal Commission formulate its own views and to draw up its own Report In accordance with this procedure settled between the two wings of the Joint Free Conference and indeed some time before the procedure had been actually settled the members of the Indian Central Committee held their sittings apart from the Royal Commission to examine the evidence given by witnesses and the reports received from the Indian and Provincial Governments and Provincial Committees as also numerous other documents submitted to the Joint Free Conference which in the opinion of the Committee became germane to its discussions

Work of the Provincial Committees

9 Following the procedure adopted for elections of members to represent the Central Legislature all the Provincial Councils instituted by the Reforms Act of 1919 were invited to elect their own representatives The members so elected constituted the Provincial Committees and sat with the Joint Free Con

ference in their respective provinces where evidence was taken They generally reflected the views of their respective provinces and have submitted their reports embodying their own recommendation on the subjects of our inquiry, while the official view is embodied in the recommendations of the Provincial Governments all of whom (except only the Government of the *Central Provinces and Berar*) *moreover, furnished us with* detailed memoranda descriptive of the progress of Reforms in their own Provinces

10 The procedure followed by the Committee was to take up each Province in its turn and formulate their views in a series of resolutions, of which a summary is appended to this Report

These recommendations taken in the aggregate fall into three groups —

(*a*) Those general as applicable to all the provinces

(*b*) Those special as applicable to some of the provinces,

(*c*) Those applicable to the Government of India

A fuller reference to them will become necessary in the sequel

11 In this connection it may be mentioned that the procedure which heralded the Reforms of 1919 was very different from the procedure now adopted The reforms of that year were preceded by a declaration made on the 20th August 1917 by Mr Montagu then Secretary of State for India defining the objective of the British Government in India in pursuance of which he visited India and informally interviewed several officials and non officials and drew up a Report to which Lord Chelmsford then Viceroy of India became a co signatory This Report is dated the 22nd April 1918 and is popularly known as the Montagu Chelmsford Report it will be referred to in the sequel as the Montagu Report This Report became the basis for the draft of the Government of India Act which was piloted through the House of Commons by its author He then pointed out that the pronouncements of 1917 to which reference has already been made must be treated as a binding pledge to be fulfilled in the near future To quote his own words — **Parliamentary announcement of 20th August 1917**

"The pronouncements of the 20th August promise that substantial steps to the introduction of responsible Government should be taken as soon as possible There is no use for pronouncements that are not fulfilled there is no use for pronouncements which take geological epochs to fulfil doubts are already beginning to appear It is suggested already unworthily suggested wickedly suggested, but still suggested—that we made an announcement and declared the intention of His Majesty's Government in order to secure loyalty from the Indian peoples during the War and that now we have achieved victory we are not going on with our purpose" **Scope of the Declaration of the 20th August 1917**

It is necessary to recall these weighty words at this juncture because there is a section of people who are inclined to treat the pronouncement as the mere enunciation of an ethical doctrine, the fulfilment of which must lie in the limbo of the future, and that even its partial fulfilment is not justifiable in view of the various circumstances which are mentioned as justifying no further reforms and upon which the greatest emphasis was laid in 1918 as justifying no reforms at all

12 It is further necessary to recall the words not only of the then Secretary of State who spoke from his place as the official mouthpiece of Government, but also of one of the leaders of the Opposition, who now occupies the position of the Prime Minister of England

13 When Mr Montagu introduced his reforms, the country was already in the throes of a boycott organised in India to mark its dissatisfaction with what was in fact called the Fabian tactics of the British Government in making large promises with no intention of fulfilling them It is to this aspect of Indian conditions that Mr Montagu referred in the speech from which a quotation has already been made The practically-minded Indian was not satisfied with the scheme of reforms formulated by Mr Montagu which eventually became embodied in the Government of India Act India was hopeful of a better return for the great service she had rendered in the War, to which generous response was promised , and indeed, some fulfillment made in the fact that India was treated as a co equal member with the self governing colonies of the British Commonwealth in being made a co signatory to the Treaty at Versailles and in her admission to the League of Nations as an independent member of the British Commonwealth Mr Montagu gave an assurance on behalf of the Government that the Reforms Act of 1919 was only a first small instalment of larger things to come He said " I cannot reiterate too often that the basis of this whole policy is its transitional nature You might lead on to something else at the earliest possible moment "[1]

At a later stage he said —

> " I can say—we can say—as I should like to say with the authority of the House to the people of India, the future and the date upon which you realise the future goal [illegible] You are being given great opportunities of consultation [illegible] in which for the present we keep responsibility You will find in Parliament every desire to help and to complete the task which this Bill attempts, if you devote yourselves to use with wisdom, with self restraint, with respect for minorities, the great opportunities with which Parliament is entrusting you "[2]

[1] Debates, dated 5th June, 1919 , Reprint, p 17, Col. 1. [2] *Ib* pp 26, 27

14 It was then contended, as it has been contended since, that whatever may have been the intention of the declaration of Policy of August, 1917, no redemption of the pledge then given is possible unless India is able to defend herself. Referring to this objection Mr Montagu said —

Contention that responsible Government is not possible unless India is able to defend herself

> "Do not deny to India self government because she cannot take her proper share in her own defence, and then deny to her people the opportunity of learning to defend themselves."[1]

End of Autocracy

15 On the [illegible] of the Reforms Act of 1919, two subsidiary [illegible] one known as the Functions Com[illegible] R Feetham from South Africa, and another the Franchise Committee, presided over by Lord Southborough. A meeting of the first Central Legislature took place on the 9th February, 1921, when it was formally opened by H E Lord Chelmsford and by H R H the Duke of Connaught, the former of whom passed in review the whole policy of British connection with India. In the first stage culminating with the first Councils Act of 1861, the British Government were, he said, extending and solidifying their Dominions. In the second stage terminating with the Act of 1892, the main achievement of administration was in fact its construction and consolidation. The third stage was ushered in by the Morley-Minto Reforms which gave the enlarged Council larger power of criticism but left the ultimate decision with the Government. The fourth stage was reached with the announcement of the 20th August, 1917, which recognised that "British policy must seek a new point of departure, a fresh orientation. On the lines of the Morley Minto Reforms there could be no further advance. That particular line of development had been carried to the furthest limit of which it admitted, and the only further change of which the system was susceptible would have made the legislative and administrative acts of an irremovable executive entirely amenable to elected Councils, and would have resulted in a disastrous deadlock. The Executive would have remained responsible for the government of the country, but would have lacked the power to secure the measures necessary for the discharge of that responsibility [illegible] For the first time the principle of autocracy which had not been been wholly discarded in all earlier reforms was definitely abandoned, the conception of [illegible] was finally re[illegible] guiding autho[illegible] of India along the road that in the fulness of time would lead to complete self government within the Empire."[2]

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[1] *Ib* p 431

[2] Assembly Debates dated 9th February, 1921 pp 11, 12

16 After His Excellency's speech H R H the Duke of Connaught read an inspiring message from His Majesty in which occur the following words

"For many years it may be generations patriotic and loyal Indians have dreamt of Swaraj for their motherland To day you have the beginning of Swaraj within my Empire and widest scope and ample opportunity for progress to the liberty which my other Dominions enjoy"[1]

His Royal Highness himself gave utterance to a few words of his own "Political freedom has often been won by revolution by tumult by civil war at the price of peace and public safety How rarely has it been the free gift of one people to another in response to a growing wish for greater liberty and to growing evidence of fitness for the enjoyment Such however is the position of India to day" As His Excellency the Viceroy has observed the principle of autocracy has all been abandoned Its retention would have been incompatible with that contentment which had been declared by Her late Majesty Queen Victoria to be the aim of British Rule and would have been inconsistent with the legitimate demands and aspirations of the Indian people and the stage of political development which they have attained[2]

Demand for a Round Table Conference

17 But in spite of these pronouncements and indeed long before these pronouncements were made the political leaders in India had already effected a strong boycott of the reform constitution as a protest against its inadequacy The whole organised campaign had been started mainly to prevent the return of candidates to the Provincial Councils and to the Central Legislature in the hope that the Government would yield to the popular pressure and scrap the constitution and offer some thing worth having But in spite of the boycott, both the Central and Provincial Legislatures become potent bodies for the transaction of business though members thereto returned were not satisfied with the smallness of the reforms given which were wholly incommensurate with the status and dignity of a great self respecting country like India in which for several years a strong agitation had been on foot to establish a visible form of democratic constitution It will be seen in the sequel how little the British Government has responded to this call for national emancipation But in spite of inherent defects of the constitution embodied in the Reforms Act of 1921 the co operating members did whatever was possible though they never failed to emphasize the inadequacy of the Reforms given and to ask for more Two resolutions to this effect were successfully passed in the Central Legislature asking for a further advance The first resolution moved by Rai Bahadur Jadu Nath Mujumdar was unanimously passed with the concurrence of Government It was followed up by a

[1] Ib p 14 [2] Ib pp 14 15

series of interpellations on what action the British Government had taken upon the insistent demand of the people of India. In July, 1922, Mr Montagu resigned his post as Secretary of State for India, and he was succeeded by Lord Peel, who penned a dispatch which was intended to be a reply to the Assembly motion. The substance of this dispatch was that the Government of India Act contained within itself sufficient potentialities for expansion without requiring the intervention of Parliament. Acting upon this suggestion one of us moved another resolution calling upon the Government to make good the promise contained in the Secretary of State's dispatch for the further expansion of the Indian constitution within the ambit of the existing Act. This resolution was carried, though resisted by the Government on the ground that the possibility of further extension of the present constitution within the comprehension of the Act was not possible without overhauling the entire machinery of Government. This attitude of the Government, and its inability to read the handwriting on the wall raised a storm of opposition throughout the land, which resulted in the sweeping away of all but a few co operators or semi co operators from the Legislative Assembly, while in the provinces themselves ministries rose and fell like a house of cards.

18 The Indian National Congress now took up a firmer attitude of non co operation and charged its members to return to the Assembly and local councils in order to exploit the machinery of constitutional obstruction to the farthest limit—to which it was carried in many places including the Assembly. In September 1925 Pundit Motilal Nehru who was returned to the Assembly at the head of the Swarajist group numbering 43 members or thereabout gave notice of a resolution which has become the war cry of the country ever since. The terms of this resolution are as follows — **The Assembly Debate**

> THIS Assembly while confirming and reiterating the demand contained in the resolution passed by it on the 18th February 1924 recommends to the Governor General in Council that he be pleased to take immediate steps to move His Majesty's Government to make a declaration in Parliament embodying the following fundamental changes in the present constitutional machinery and administration of India
>
> (a) The Revenues of India and all property vested in or arising or accruing from property or rights vested in His Majesty under the Government of India Act or received by the Secretary of State in Council under any of the said Acts shall hereafter vest in the Governor General in Council for the purposes of the Government of India
>
> (b) The Governor General in Council shall be responsible to the Indian Legislature and [illegible]

such responsibility, shall have the power to control the expenditure of the Revenues of India, and make such grants and appropriations of any part of those revenues or of any other property as is at present under control or disposal of the Secretary of State for India in Council save and except the following which shall for a fixed term of years remain under the control of the Secretary of State for India —

(1) Expenditure of the Military Services up to a fixed limit

(2) Expenditure classed as political and foreign

(3) The payment of all debts and liabilities hitherto lawfully contracted and incurred by the Secretary of State for India in Council on account of the Government of India

(*c*) The Council of the Secretary of State for India shall be abolished, and the position and functions of the Secretary of State for India shall be assimilated to those of the Secretary of State for the self governing Dominions, save as otherwise provided for in clause (*b*)

(*d*) The Indian Army shall be nationalised within a reasonably short and definite period of time, and Indians shall be admitted for services in all arms of defence, and for that purpose, the Governor General and the Commander in Chief shall be assisted by a Minister responsible to the Assembly

(*e*) The Central and Provincial Legislatures shall consist entirely of members elected by constituencies formed on as wide a franchise as possible

(*f*) The principle of responsibility to the legislature shall be introduced in all branches of the administration of the Central Government subject to transitional reservations and residuary powers in the Governor-General in respect of the control of Military and Foreign and political affairs for a fixed term of years

Provided that during the said fixed term the proposals of the Governor General in Council for the appropriation of any revenue or moneys for military or other expenditure classified as "Defence" shall be submitted to the vote of the Legislature, but that the Governor General in Council shall have power, notwithstanding the vote of the Assembly, to appropriate up to a fixed maximum any sum he may consider necessary for such expenditure and in the event of a war to authorise such expenditure as may be considered necessary exceeding the maximum so fixed

(*g*) The present system of Dyarchy in the Provinces shall be abolished and replaced by Unitary and Autonomous Responsible Governments subject to the general control and residuary powers of the Central Government in inter provincial and all India matters

(*h*) The Indian Legislature shall after the expiry of the fixed term of years referred to in clauses (*b*) and (*f*), have full powers to make such amendments in the constitution of India from time to time as may appear to it necessary or desirable

This Assembly further recommends to the Governor General in Council that necessary steps be taken —

(*a*) to constitute in consultation with the Legislative Assembly a convention, round table conference or other suitable agency adequately representative of all Indian European and Anglo Indian interests to frame with due regard to the interests of minorities a detailed scheme based on the above principles, after making such inquiry as may be necessary in this behalf,

(*b*) to place the said scheme for approval before the Legislative Assembly and submit the same to the British Parliament to be embodied in a Statute"

19 As will be seen the resolution indicates the line of advance and repudiates the authority of Parliament to legislate for India and calls upon the Government to convene a round table conference to draw up [illegible] dia and embody the same in a [illegible] the precedent of the Irish Free [illegible] of the resolution presumably drew his inspiration The resolution (moved in the form of an amendment to the Government resolution) was debated in a full House, it was sought to be moderated by conceding to Parliament its authority to legislate for India and demanding a conference or some other equally acceptable method of procedure for the fulfilment of the pledge made for the furtherance of Indian reforms in the near future The Assembly rejected all these counsels of moderation and passed Pundit Motilal Nehru's resolution by 72 votes against 45 votes An analysis of the voting shows that the elected members solidly voted for the resolution wh[illegible] it was resisted only by the officials and their nominees

20 The resolution did not eventuate in any decisive [illegible] by the Government which appointed a mixed Comm[illegible] nine members with the following terms of reference [illegible]

"(1) To inquire into the defects arising fr[illegible] defects inherent in the working of the Govern[illegible] India Act and the Rules thereunder in regard [illegible] Central Government and the Governments of G[illegible] provinces and

(2) To investigate the feasibility and desirability of securing remedies for such difficulties or defects, consistent with the structure, policy and purpose of the Act,

(a) by action taken under the Act and the Rules, or

(b) by such amendments of the Act as appear necessary to rectify any administrative imperfections

21 It is noteworthy that none of the protagonists of the resolution, and indeed, no non official member of the Assembly, except Mr Jinnah consented to serve upon this body, the terms of reference of which were too narrow to admit of a large extension of the reforms, and as for their further extension within the comprehension of the existing Act, the members felt that the time for it had long gone past, and that the country was thirsting for the long delayed reforms of the character demanded on the eve of the Montagu Act, and as that Act was in itself inadequate to meet with the requirements of Indian conditions, there was no need for a Committee of the kind appointed However, as it was, after a long and strenuous examination of witnesses, the Committee published their report, a majority comprising five members mostly officials were in favour of no substantial advance, while the minority comprising four out of the five non official Indian members—Sir Tej Bahadur Sapru, Sir Sivaswamy Aiyer, Mr Jinnah and Dr Paranjpye penned a considered report in which they recommended a substantial advance and suggested the means by which it could be effected even within the existing constitution They advocated the complete abolition of dyarchy and pointed out that the existence of dyarchy in the Governments would be prejudicial to the growth and strength of parties in the Councils They complained that the Meston award had crippled the resources of the provinces and that it had been the corner stone of the entire financial system for it had prevented ministries from developing nation building to the extent which would have enabled them to have achieved any substantial results, and while they deprecated the substitution of another transitional system they wound up their recommendations with the following pregnant sentence "To our mind the proper question to ask is not whether any *alternative transitional* system can be devised, but whether the constitution should not be put on a permanent basis, with provisions for automatic progress in the future so as to secure stability in the government and willing co operation of the people We can only express the hope that a serious attempt may be made at an early day to solve the question"[1]

22 It will thus be seen that the signatories, who included some of the most prominent representatives of India, deprecated the restricted terms of reference and suggested that the Reforms Act had outlived its small and perhaps questionable utility, that that the time had come for the

[1] Report pp 201—203

grant of further reforms and that such reforms should be permanent and such as the people would willingly work. It is a trite saying ascribed to Solon, that when he was congratulated on the best laws he had given to Athens he replied, 'Best they are not but they are the best that the people would accept.' The willing acceptance of the laws by the people is a certain pledge of their success, but this was wanting both in the Acts of 1919, and in the subsequent enquiries set on foot by Government under the pressure exerted by the Legislative Assembly. In the result the whole report was pigeon-holed where it still lies enshrined, no action being taken even upon the smaller recommendations which the majority recommended while those of the minority were entirely ignored. This apathy of the Government fed the flame of national discontent which was reflected in the ensuing elections which took place two years later. An almost complete overhaul of the personnel of the Legislative Assembly was the result. Of the members who had served in the first Assembly only a handful were returned and the majority of them were returned by communal constituencies. A few stalwarts however managed to retain their seats not on account of any difference in their policy, but because of their local influence in the constituencies which had returned them to the first two Assemblies. The Government at last took action by accelerating the pace of the Statutory Commission and in November 1927 after a formal amendment of the Government of India Act the appointment of a Statutory Commission within ten years instead of on its expiry was passed and the personnel of the Commission announced to the House which was required to express its concurrence therewith.

Functions of the Indian Central Committee defined

23. Hopes had till then been high that the Commission would be a mixed one including members of the Central Legislature as well as those of the British Parliament. But these hopes were shattered by the appointment of a purely British Commission which became the subject of animated debate in the House of Commons. A strong plea for a purely Parliamentary Commission was argued by Lord Birkenhead the then Secretary of State for India who however tried to assuage the exacerbated feelings of the Indian politicians by assuring them that as the British Parliament was appointing its own Commission the Indian Legislatures would be free to elect their own members to co-operate with the British Commission and that the two would conjointly deliberate in the matter of further reforms. His *ipsissima verba* are well worth quoting here:—

> Now what would be the function of that Committee? It has been most irrationally assumed that they were merely to appear as witnesses before the Commission. That is not the case. They are invited in a spirit of great sincerity to co-operate as colleagues with the Commission. It is contemplated that they shall prepare in

advance of the arrival of the Commission if they find themselves able to do it this next cold weather and if they find themselves within that limited period unable to do it a year later their own proposals could come before the Commission and say These are our suggestions' We have claimed and they have claimed that the West cannot devise a Constitution for the East that you cannot put Eastern wine into Western bottles Well if there be behind that claim and I do not doubt it sincerity and real feeling we afford them an opportunity of confronting our Commission with their own proposals which can be made public which can be analysed *criticised can be accepted or rejected after that analysis* and after that criticism No greater opportunity was ever given than is afforded to the Central Committee in the first place by the suggestion that they should confront the Commission with their own constructive proposals [1]

But observe our next stage It is well known that we intend that after the Commission has presented its Report the proposals of the Government thereon will be sent in accordance with precedent to a Joint Conference of both Houses of Parliament

It is our intention to set up a similar body Supposing it to be the fact that in spite of the constant contact in India between the Central Committee at the heart of government and the Provincial Committees of the Legislatures in each Province to which the Commission will journey, that in spite of all those opportunities of ascertaining opinion the Indians have failed to make good their view upon the independent and unbiased judgment of the Commission they are not even then compelled to acquiesce

They will on the whole have been given an opportunity which in my judgment has never been given in the whole history of constitution making to any people who are in their position We invite the Central Government to appoint a Committee to come and sit with our Joint Committee They can examine the Report of the Commission They are even given a function if they could only understand it more important than that of the Commission itself When once the Commission has made its report it has finished But its critics remain and its critics are most formally and specially invited to come and sit with the General Committee in Parliament and develop any criticisms or objections that they feel to the Report which the Commission has made' [2]

Mr Ramsay MacDonald's view

24 Lord Winterton then Under Secretary of State for India made a similar announcement in the House of Commons and in the ensuing debate Mr Ramsay MacDonald then leader of the

[1] Debates Reprint p 135
[2] Debates 24th November, 1927 Reprint, pp 135 136

Opposition, and now the Prime Minister of England while concurring with the appointment of a purely Parliamentary Commission made the following considered statement on behalf of his Party —

> "We advised most strongly that if the wording used by the Prime Minister, in making his announcement, implied that the status between our Commission and the Indian Commission was to be the status between a Commission and the witness of a Commission, that impression ought to be removed at once We must have no idea in our minds, and I hope the Commission when it goes out will not have a particle of an idea in its mind, that the representatives of the Indian Legislature are simply going to present a written report and temporarily wish 'good day' to our Commission, leaving our Commission to examine and discuss that report among themselves, that later our Commission will call back the Indian representatives to sit at the other side of a table and answer questions put to them for the purpose of illuminating their proposals That is not our intention I am perfectly certain, and it should be made clear that it is not our intention I hope the intention is —and I am sure if this intention is not carried out, the Commission that we are going to appoint to day will not be as successful as it could be if properly handled—to go to India, and to see at once our colleagues appointed by the Indian Legislature, to get their statements, to exchange views with them, to negotiate with them—as a matter of fact to regard them just as honourable Members opposite sitting on a committee would regard honourable Members from this side of the House sitting on the same committee, using their common experience and common intelligence and common ideas for the purpose of producing the very best report a committee can produce"[1]

25 These words and the whole of Mr MacDonald's speech on this occasion when he accepted Lord Birkenhead's motion and the terms offered by him to place the Indian wing of the Commission on exactly the same footing as the British Commission leave no doubt that he contemplated that the two wings would confer as freely as if they were members sitting on the same committee using their common experience and common knowledge and common ideas *for the purpose of producing the very* best report a Committee could produce Even after the report the members of the Indian Committee were then expected to influence Parliament by sitting upon the Joint Parliamentary Committee to confer with them while the objective of the Commission was clearly adumbrated by Mr MacDonald who was for conferring upon India the full dominion status without any of the huckstering devices and conditions which would mar the value of a free and generous gift of freedom by one nation to another "The Under Secretary of State for India he said — **Promise of Dominion Status for India**

[1] H [illegible] 183

"referred to certain claims that were made, and one which he specified was this—I paraphrase him, and perhaps I make his point a little more absolute that he himself made it—that in dealing with people for whom we have been responsible in days gone by, we have now reached that point in their evolution when the time has come for us as a Parliament and a nation to say to them, what many of us have had to say to our children who have grown up, 'You are going out into the world I have done my best for you whilst you were under my wing and whilst I was responsible for you, and now take the responsibilities of manhood upon yourselves, and God bless you in your future career A nation like ours, that has taken upon itself the responsibility for peoples—primitive peoples, subject peoples people who have fallen under our custodianship and trusteeship by accident, people whom we have brought there by force of arms—a nation like ours, in these democratic days when the spirit of nationality and self independence has become so powerful in the world must make up its mind again and again to put itself in the position of the parent who blesses his departing child and how are we to do it ? It is said in this respect that if we were wise, if we were enlightened, if we were liberal if we had really good fellowship, and goodwill, we would say to India 'Go, and go just as you like yourselves' That is not good, that is not wise that is not fulfilling the best service we can do to India, and what is more that is not guiding the destinies of a growing world aright "[1]

Mr MacDonald has repeated these noble sentiments again and again and it may be assumed that he and his Party stand committed to their declared policy of establishing a full responsible constitution in India

Central Committee joins the Commission

26 The Committee of the Central Legislature assumed office on the 10th October, 1928, from which date it has continued to function up to the date of the Report While in India, it examined numerous witnesses and received documents and in England it examined many witnesses and perused the memoranda and documents prepared by the several departments of India Office But these memoranda documents and witnesses though numerous, are nothing compared to what would have been available to the Committee if it had not been confronted with the strenuous boycott maintained throughout its tour Whatever province the Committee visited there were unmistakable signs of an organised boycott, and even in the out of-the way places and far off countryside, through which the train of the Committee passed signs of the presence of the boycotters was not wanting It cannot be denied that the politically minded India had organised and marshalled an effective boycott both of the Statutory Commission and its Indian Wing Many leading politicians and publicists refrained from giving evidence, or the

[1] *Ib* pp 185, 196

conference any support This practical boycott was even at a later stage strengthened by its extension to our social side But in this respect the attempt failed as wherever we went we received great courtesy and in private, many of the boycotters freely expressed their views on what should be the line of advance for India The fact is that Mr Montagu s pronouncement in the House of Commons had assured the people of India that there could be no going back upon the reforms, and that the next Parliament would bring them within a measurable distance of a full responsible Government This partially accounted for the dearth of evidence of the intelligentsia in the country, but whatever may have been the reason, we cannot disguise from ourselves the fact that the evidence we have recorded does not fully represent the mind of an important section of the people of India On the other hand it is in many ways a partial and one sided evidence given by persons some of whom must have designedly or undesignedly striven to gain profit for themselves and their community by the withdrawal of the evidence of eminent politicians successful business men and men whose opinions count and influence public opinion

27 At the same time there were provinces where the boycott was not so severe or stringent as for example Madras Punjab and Burma where all the available evidence with a few exceptions was readily obtained The Committee is not however the loser by the boycott because the protagonists of that movement had already previously published their scheme of reforms which [illegible] the All Parties Confer[illegible]ere present at this [illegible]e [illegible] Ali Imam the Maharajah of Mahmudabad and Mr M A Jinnah President of the Moslem League have appended their signature to the document Another bears the imprimatur of H H the Aga Khan and Sir Mian Mohamed Shafi and of our own colleague, Sir Zulfiqar Ali Khan The common feature of these two conferences is the demand for Dominion status for India But the one point upon which they differ is the question of Moslem representation and the adequacy of the safeguards The *Moslem League* favours joint electorates with the reservation of seats while the Delhi Conference presided over by H H the Aga Khan has rejected this as inadequate — Published schemes

28 *Other notable bodies such as the National Liberal Federation* the European Association and the Associated Chambers of Commerce have also formulated a series of resolutions in which they have voiced their views and the European bodies deputed their representatives to give evidence before us so that we have not only had the advantage of their memoranda but also their oral evidence The Indian National Congress which met in December 1928 at Calcutta has formally adopted the report of the All Parties Conference though noted Congress men like Mr Mohamed Ali an ex-President of the [illegible] have

expressed their unequivocal dissent from the implications of the All Parties Conference Report Mr Mohamed Ali latterly presided at the Moslem conference held at Bankipur and while he accepted the system of joint electorates he has hedged it with conditions which have rendered the acceptance of his proposals impractical The Moslems who have stood by the Congress Report have not come forward to give evidence, nor have many members of the Indian Liberal Federation who also held their Conference about the same time at Allahabad under the Presidency of Mr Chintamani who had concurred in the formulated views of the All Parties Conference embodied in a document popularly known as the Nehru Report and by which term we shall describe it in the sequel The Nehru Report has subsequently undergone a revision and the reference will throughout be made to that Report as subsequently modified

The Nehru Report

29 The Nehru Report is a long detailed document which seeks to work out in minute details the future constitution of India Its leading principles are as follows It demands the immediate establishment of responsible Government both in the Central Government and in the Provinces It sets out a compromise arrived at between the Hindus and Mohammedans and recommends joint electorates with the reservation of seats if so desired by the Mohammedans in proportion to their population both in the Central and the Provincial Legislatures[1] It recommends reversion to joint electorates in all except the two Provinces of Bengal and the Punjab but as a set-off it provides for the immediate introduction of adult suffrage the grant of the same measure of reform to the two Mahomedan Provinces—North West Frontier Province and Baluchistan and the creation of another Mahomedan province by the separation of Sind from the Bombay Presidency[2] It supports these changes by invoking the aid of self determination but at the same time makes the important condition that the separation of the Sind division of the Bombay Presidency should be made contingent upon the people of Sind shouldering their financial burden[3] The value of this document rests not so much upon the demand of responsible government as upon the terms of the compromise on which alone the Mahomedan co signatories of the Report and their adherents would accept joint electorates in the minority provinces The rest of the report deal with the necessary attributes of responsibility and sets out as already stated in great detail matter a good deal of which must necessarily find a place in a codified constitution for India Mr Jinnah s Moslem League strove to support this report in all its particulars but his ship was wrecked upon the shoals of joint electorates the only point upon which the minds of the two communities of India have been agitated ever since the advent of the reforms

[1] Report pp 51 5 [2] Ib pp 65 66 [3] ... 6

30 As this Report and the other reports of the conference to which we have already alluded will be the subject of our scrutiny at a later stage we may for the present leave them alone. Another document to which reference must be made here is the Montagu Report. As we have been called into requisition for the purpose of carrying out the scheme of reforms adumbrated by that Report we think it necessary to clear the ground by stating the points upon which the Report is explicit and the points which it omitted to consider or left out for future judgment. It will be seen that the Montagu Report mainly confined itself to reforms in British India and did not attempt to embrace the question of the Indian States and their inter relation with British India. At the same time its authors had realized that the changes contemplated in British India would react upon the Indian States and pointed out how they would react. They did not however, do more than allude to the conflict that might arise between the two halves of India much less offer a solution for averting or solving such conflicts. They hoped, however that such conflicts would not impede the progress of British India, and as they were preserving intact the power of the Governor General in Council the Princes might perhaps they thought, rest content with the means which they have at present of securing the due consideration of their views. But if the control of matters common to India as a whole is shared with some popular element in the government it must be anticipated that those Rulers may wish to take a share in such control also. There is a stronger reason why the present stir in British India cannot be a matter of indifference to the Princes. Hopes and aspirations may overleap frontier lines like sparks across a street. There are in the Native States men of like minds to those who have been active in spreading new ideas in India. It is not our task to prophecy but no one would be surprised if constitutional changes in British India quickened the pace in the Native States as well, if the advanced Princes who have already set up the rudiments of representative institutions were impelled to develop them and if even the most patriarchal Rulers thought in time to clothe their authority in more modern garments. Our business however is to observe our treaty obligations and to refrain from interference and to protect the States from it. We must leave the natural forces at work to provide the solution in due course. If change comes in the Native States it can only be by the percolation of ideas and not as a direct result of constitutional changes in British India.[1]

Reservations in the Montagu Report

31 While the reasons given by the distinguished authors of the Montagu Report were amply sufficient to justify the exclusion of the States from their consideration of the problems then arising in British India it is clear that any change in the Government of India towards responsibility must necessarily entail the review of the position of the Indian States in relation to the Government of India.

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1 § 1 [illegible]

expressed their unequivocal dissent from the implications of the All Parties Conference Report Mr Mohamed Ali latterly presided at the Moslem conference held at Bankipur, and while he accepted the system of joint electorates he has hedged it with conditions which have rendered the acceptance of his proposals impractical The Moslems who have stood by the Congress Report have not come forward to give evidence, nor have many members of the Indian Liberal Federation who also held their Conference about the same time at Allahabad under the Presidency of Mr Chintamani who had concurred in the formulated views of the All Parties Conference embodied in a document popularly known as the Nehru Report and by which term we shall describe it in the sequel The Nehru Report has subsequently undergone a revision and the reference will throughout be made to that Report as subsequently modified

The Nehru Report

29 The Nehru Report is a long detailed document which seeks to work out in minute details the future constitution of India Its leading principles are as follows It demands the immediate establishment of responsible Government both in the Central Government and in the Provinces It sets out a compromise arrived at between the Hindus and Mohammedans and recommends joint electorates with the reservation of seats if so desired by the Mohammedans in proportion to their population both in the Central and the Provincial Legislatures[1] It recommends reversion to joint electorates in all except the two Provinces of Bengal and the Punjab but as a set-off it provides for the immediate introduction of adult suffrage the grant of the same measure of reform to the two Mahomedan Provinces—North West Frontier Province and Baluchistan and the creation of another Mahomedan province by the separation of Sind from the Bombay Presidency[2] It supports these changes by invoking the aid of self determination but at the same time makes the important condition that the separation of the Sind division of the Bombay Presidency should be made contingent upon the people of Sind shouldering their financial burden[3] The value of this document rests not so much upon the demand of responsible government as upon the terms of the compromise on which alone the Mahomedan co signatories of the Report and their adherents would accept joint electorates in the minority provinces The rest of the report deals with the necessary attributes of responsibility and sets out as already stated a great detail matter a good deal of which must necessarily find a place in a codified constitution for India Mr Jinnah's Moslem League strove to support this report in all its particulars but his ship was wrecked upon the shoals of joint electorates the only point upon which the minds of the two communities of India have been agitated ever since the advent of the reforms

1 Report pp 51 5 2 Ib pp 65 66 3 Ib 67

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1 § 1[illegible]

Indian States Committee

32 Fortunately for our purpose the Secretary of State had on the 16th December, 1927 appointed a small Committee presided over by Sir Harcourt Butler to examine and report on the relationship existing between the paramount power and the Indian States with particular reference to the rights and obligations arising therefrom and to inquire into the financial and economic relations between British India and the States, and to make any recommendations that the Committee might consider desirable or necessary for their more satisfactory adjustment The appointment of this Committee was a direct result of an enquiry originated in consequence of a request made to His Excellency the Viceroy at Simla in May 1927, when a representative group of Princes had asked for the appointment of an authoritative and representative committee to examine the relationship between themselves and the paramount power and to suggest means for securing effective consultation and co operation between India and the Indian States and for the settlement of differences between the two The Princes had also asked for adequate investigation into certain disabilities under which they felt they were labouring

Its decisions and [illegible]

33 It will be noticed that the terms of reference precluded the Committee from going into or suggesting any means for securing effective consultation and co-operation between British India and the Indian States or for the settlement of all differences other than political and economic between them It also did not provide for the adequate investigation of the disabilities complained of by the Princes Limited as the Committee were by the terms of reference and lacking the representative character for which the Princes had pressed they could do little except make certain suggestions for the solution of the problems referred to them and they have only incidentally referred to the excluded matters adding that no proposals for establishing a new machinery had been placed before them though they indicated changes in procedure based on experience which should lead to the redress of grievances and the settlement of outstanding questions As for a closer co operation between the two Indias the authors of the Report left the door open for closer union adding—

> there is nothing in our proposals to prevent the adoption of some form of federal union as the two Indias the present draw nearer to one another in the future There is nothing in our proposals to prevent a big state or a group of states from entering now or at any time into closer union with British India Indeed in the next section of our report we make suggestions which if adopted may have this result These things may come But it has been borne in upon us with increasing power as we have studied the problems presented to us that there is need for great caution in dealing with any question of federation at the present time so passionately are the Princes as a whole attached to the maintenance in its entirety and

unimpaired of their individual sovereignty within their states "[1]

The other recommendations made by this committee to which we consider a passing reference here necessary are —

(1) That the Viceroy and not the Governor General in Council should in future be the agent of the Crown in all dealings with the Indian States

(2) If there is a disagreement between British India and the Indian States an *ad hoc* committee should decide the dispute [2]

34 On this point they referred to § 308 of the Montagu Report which had suggested the formation of such a Committee to decide such disputes

The States Committee did not make any substantial contribution to the elucidation of the vexed question upon which the Government of India and the Indian Princes have been at variance It was the contention of the Indian Princes that, being in treaty with the Crown of whose paramount authority the Government of India was only the Agent the Government of India was not the proper body to decide disputes arising between the Princes and itself In other words the Indian States questioned the authority of the Government of India to be both party and judge in its own case

Its view on Paramountcy.

35 The question was in certain of its aspects distinctly raised and rejected by Lord Reading with the concurrence of the t The decision of t a the concurrence (as appendix 2[3] of the Committee's Report with which that Committee is in entire agreement

36 Pass n in review the several cases that had previously raised the same question the Committee in one place observe that it is impossible to define paramountcy [4]

37 But in an ther place they say The Paramount Power means tl Crown acting through the Secretary of State for India and the Governor General in Council who are responsible to the Parliament of Great Britain Until 1835 the East India Company acted as trustees of and agents for the Crown but the Crown was through the Company the Paramount Power The Act of 1858 which put an end to the administration of the Company did not give tl Crown any new powers which it had not previously possessed It merely changed the machinery through which the Crown exercised its powers

38 In this view the Crown being then paramount it has acted in relation to the Indian States through the Secretary of State for India and Governor General in Council who are [illegible] at Britain In other the Crown in relation

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[1] Report § [illegible] [2] Ib § 70 [3] Ib pp [illegible] [4] Ib § 57 [5] Ib § 1[illegible]

Modern idea of Sovereignty

39 Historically the Crown as such has no direct control over the Indian States Its power as such has long since passed to Parliament The Austinian notion of Sovereignty has long since been superseded by the modern conception which regards sovereignty as divisible and sovereign rights distributable amongst the members of its State or amongst some members thereof according to the constitution of the State concerned Even assuming that the mediaeval notion of Sovereignty had still persisted it does not follow that the Sovereign is not entitled to consult any person it pleases or delegate some of his functions to him In either view the fact remains and the Butler Report emphasises it that in practice the relations of Indian States with the Crown are managed by the Secretary of State and the Governor-General in Council

40 The States may well claim that the former being the accredited agents of the Crown the agency ought not, without their own consent to be transferred or materially altered by the transference of ultimate control from the English to the Indian Parliament

Authority of Parliament

41 This raises the other large question as to whether the Parliament of Great Britain is competent to transfer its own authority and power to another Parliament constituted by it That it has undoubtedly that power is amply demonstrated by the existence of the Dominion Parliaments which have been declared at the recent Imperial Conference as Sovereign bodies within their own spheres

42 This question will have to be further discussed in the sequel[1] For the present it is sufficient to state that the authors of the Montagu Report though they do not actually advert to this aspect of the question had nevertheless something of that kind in their minds when they advocated the establishment of a Privy Council in India

43 The question is by no means an easy one but reference to it can no longer be avoided in the ensuing discussion where the inter relation of the Indian State and the reformed British India will have to be considered For the present it seems clear that we cannot steer clear of the Indian States because the Indian States themselves have raised several questions which vitally affect the revenue and development of British India and would in the near future bring the two into direct contest Indeed the Indian States are already pressing for a satisfactory settlement in respect of the maritime customs the Income Tax income from railways mints and coinage posts and telegraph and the profits of savings bank from Opium and Excise and other miscellaneous sources of revenue which vitally affect the revenues and general administration of British India

44 The Butler Report has no doubt found a solution for some of these questions but it is too early to state how far their solutions would be acceptable to the Indian States and even if

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1 Ch V (III) 2 Montagu Report § 287

accepted by them how far they would be in consonance with the interest of British India

45 One fact is clear that if the Governor General in Council now responsible to the British Parliament is made responsible to the Indian Parliament it would affect the Indian States in the sense in which the Butler Committee have defined the power of the Crown and as our proposals contemplate the transference of such power we cannot evade the discussion of the question of the relation of the Indian Parliament with the Indian States

46 We have in a subsequent chapter headed "The Indian States" examined the question of our jurisdiction and set out our reasons why we could not avoid the question much as we should have liked to do so if it were possible

Having so far cleared the ground as to the subjects which our Committee feels constrained to go into it remains for us to see what should be the line of progress which we should recommend as a next step in the evolution of the Indian Constitution

47 The Nehru Report, and other reports and schemes published, have borrowed largely from the constitutions of other self governing dominions of Great Britain and an examination of these would show that they are themselves adaptations of the English form of Parliamentary Government to local conditions and we cannot therefore bodily borrow them unless we can be sure that the local conditions in reference to which they were framed are similar if not identical with our own

References to other constitutions

48 Take, for instance the Nehru Report, which has been largely framed on the model of the Irish Free State Constitution which in its turn acknowledges all its inspiration to the Canadian Constitution[1] Even the genesis of the Nehru Report borrows largely the procedure which culminated in the Anglo Irish Treaty to which the Irish Constitution of 1922 merely gave legislative expression

49 As is well known after the general elections of December, 1918 a conference of all the Irish Members was held on the 21st January 1919 at the Mansion House Dublin These members were elected upon the issue of independence and had taken a pledge that if returned they would not take their seats in the British Parliament or acknowledge its authority to legislate for Ireland

History of the Irish Constitution

50 This Assembly drew up and promulgated a provisional Constitution for the country ratified the establishment of the Irish Republic proclaimed in 1916 and established the Ministry responsible to the Irish Parliament The newly established Republic began to function independently of England It appointed its own Judges alongside of the British established Courts The British Government watched the proceedings of the Irish Parliament hoping that it would soon spend its force which it did not and when it threatened to be a real menace to the established authority it commenced to resort to the use of

[1] See the Irish Free State Act, Art 51

force which the Irish met by converting their Irish Volunteers into the Army of the Irish Republic The Republic and the British Army came to close grips and then began a guerilla warfare which continued up to 1921

51 In the previous year the British Parliament had to pass an Act entitled The Government of Ireland Act 1920 which partitioned Ireland into Catholic and Protestant Ireland and affirmed the authority of the Irish Parliament over Catholic counties which constituted the Southern portion of that Ireland but the war still continued with the result that Mr Lloyd George arranged for truce with the Irish forces as a preliminary to peace negotiations which came into force on the 11th January 1921 and on the 29th July it was agreed that the conditions of settlement between Great Britain should be embodied in the form of a treaty to which effect in due course should be given by the British and Irish Parliaments

52 After protracted negotiations between the representatives of the two countries a compromise was reached which was ratified by the plenipotentiaries of the two countries and the same was afterwards embodied in the Irish Free State Act

53 A similar procedure was sought to be adopted in India when an effort was made to establish a parallel government The British Courts were to be boycotted and recourse was had to the Arbitration Court and a large number of volunteers defied the authority of the British Government in India and preferred to go to jail rather than submit to its jurisdiction This did not however last long Foiled in this attempt to parallel the Irish procedure the Congress next resolved to convene an All Parties Conference in which a constitution on the lines of the Irish Constitution was drawn up and published This has come to be popularly known as the Nehru Report

Conditions of Peace with the Moslems

54 It will be seen that the condition which made the parallel Constitution for Ireland effective was the backing of the people of Ireland who stood by that constitution and defied the authority of the British and returned force for force This was not possible in India The Constitution when it was published at once set loose diverting forces and a large body of Muslims threatened by their absorption and fearing the relegation of their interests to a secondary place seceded and formulated views of their own The Moslem minority in India was a standing menace to the success of any Constitution drawn up by the major community The latter knew too well that they could not hope to present even a united front without effecting a compromise acceptable to the Mahomedans The chief bone of contention between the two communities was, of course the apportionment of power The Mahomedans naturally distrusted the Hindu domination , the Hindu naturally feared from the Mahomedan fervour So long as the two communities are imbued with their religious intolerance all hope of a national government in the

real sense of the term, is merely an ideal not immediately obtainable, not indeed, until both are sufficiently advanced and have recognised by experience the value of civic duty as distinct from religious allegiance But as this would bring about a millennium not to be expected in our day or in our time, the two communities did the only thing they could do, namely, patched up their difference by a mutual give and take in which the rights given and the rights taken took no account of the realities of the situation, or of the effect they would produce upon those who were unfortunately made pawns in the game of such politics Take, for example, the main question about the electorates, the Mahomedans naturally fear, as has been already stated, from preponderance of the Hindus in seven out of the nine provinces of India Even in the two provinces of the Punjab and Bengal, where the Mahomedans are numerically stronger, the Hindu influence is stated to have dominated the situation (§ 75) A *pis aller* was found in advocating universal adult suffrage which would give the Mahomedans of *the two Provinces a larger electorate*, while as a part of the make weight full measure of reforms was to be given to the North West Frontier Provinces, where 95 per cent of the population are Mahomedans The Sindh division of the Bombay Presidency, where the Mahomedans number 71 per cent, was to be separated from the Bombay Presidency while Baluchistan, another Mahomedan stronghold, was to be given similar reforms

55 The authors thought that in carving out a new Province and in extending the full measure of provincial autonomy to the two existing backward Provinces they would create a Moslem India, the Hindu population of which should be held as a hostage for the good government by the Hindus in the rest It may be a good compromise between the parties immediately interested in producing a plausible report but the fact unfortunately remains that the authors thereof could not fail to have realized that India was not yet prepared for a universal adult franchise

56 As is well known, literacy in the country is at the minimum only about 5 per cent of the male population being literate while literacy amongst the female population is negligible, being only about 1 per cent and literacy amongst the majority of even the so called literates would be a euphemism if a stricter test applicable to Western countries were applied to them

57 By tradition and habit the Indians have been strangers to representative democracy as now understood It is due to the advent of the British and their impact with the Western civilization and their education in the newly established Universities modelled upon those in Europe that the politically modern India owes her aspiration for Parliamentary institutions However galling it may be to the feeling of our self respect and national

pride this fact cannot be ignored and if Western institutions are to thrive in an Eastern soil, it is the intensive cultivation of the Western method of civic life and thought that would reduce the superabundance of froth that obscures the true perspective of the people of India

58 The Nehru Report is in this respect an ominous document If it were translated into action it would make the Hindu hostages extremely uncomfortable in the Mohammedan Provinces and by no means improve the lot of the Mohammedans in the Hindu Provinces What is required in the country is a Liberal Government which would educate the people into the art of learning the art of self government but unfortunately the history of British connection with India has created vested rights and interests which have for one reason or another, made substantial advance slow if not impossible A bold step in the direction of self government with all its attendant risks seems the only alternative He who wishes to swim must throw himself into the water he cannot learn it from the shore All the problems and difficulties which confront India and are magnified by its critics can only be solved by giving India a fair opportunity of developing its latent quality for self government In politics as in many other walks of life the prime panacea for all such evils is—*Solvitur ambulando*

As the Nehru Report is a compromise prejudicial to the true interests of India so are also the resolutions passed by the All Parties Muslim Conference

59 The demand of the Mohammedans is that the numerical majority in the Punjab and Bengal should find its corresponding reflex in the legislative council and the cabinet while in the other provinces being in the minority they should be given a weightage It is hardly necessary to add that if this were for one moment conceded it would at once and for all time establish an autocracy in the Punjab and Bengal Provinces and create an oligarchy in the other Provinces which is the very antithesis of democratic rule As John Stuart Mill says —

> "A majority in a single assembly when it has assumed a permanent character—when composed of the same persons habitually together and always assured of victory in their own House—usually becomes despotic and overweening if released from the necessity of considering whether its acts will be concurred in by another constituted authority"

60 If the Mohammedan claim were for one moment conceded it would raise a storm of opposition in the two provinces of Punjab and Bengal since the Mohammedans being in a fixed immutable majority safeguarded by statute there would be no element of democracy left, in that the opposition could never hope to turn the majority out and form an alternative government Freed from this contingency, and sheltered by the citadel

of religious orthodoxy, the majority might easily become a veritable engine of oppression and misrule, against which the combined opposition would be impotent, and this is what the All-Parties Moslem Conference seriously advocate

61 The creation of Communal Cabinets is open to the same, if not greater, objections, in that it places religious belief before political responsibility A joint responsibility would be a myth in a cabinet arrayed in communal colours The majority of the Committee have, therefore, wisely refrained from placing religion above politics They are of opinion that the people of India should be taught the value of co operation and that an opportunity should be given to them to learn by experience what they have failed to grasp by precept

62 It may be that the scheme proposed by the Committee leaves other alternatives even more innocuous out of account, but it cannot be charged to its discredit that it had failed to consider them As will be seen in the sequel, other proposals were brought forward for insuring the largest measure of agreement with the least risk of the dangers which the two communities feared from a joint electorate It is hoped that these proposals which were tentatively made to the representatives of the two communities in the Central Committee might yet be revived and, if possible given a trial in the constitution of India (§ 130)

63 These observations have been made for the purpose of illustrating the danger of borrowing a constitution from another country Neither the Canadian nor the Australian nor indeed, the South African constitution presents an exact parallel to the conditions which obtain in India It is true that in Canada the French and the English were at daggers drawn before the promulgation of the present constitution It is equally true that the rivalry between the Boers and the English in South Africa has not materially abated but in both countries racial difference rather than religious rancour divides the two communities A parallel can however be found in some of the East European countries such as Palestine Jugo Slavia Greece Albania and Egypt where the Moslem population the Jewish population and the Christian population are divided by their ostensible manifestations of religious differences but in none of these countries has political power been apportioned between the followers of different religions upon the basis of their religion

64 The subject has been several times considered by the League of Nations a summary of whose conclusions have been set out under the Chapter headed " Protection of the Minorities " (§§ 115 130)

II

The Problem Stated

65 After these preliminary observations, the problems which confront the Central Committee may now be stated —

(a) Following the language of Section 84A of the Government of India Act the first question which the Committee has to consider is how far the system of government established in India by the Reform Act of 1919 justifies a further advance ,

(b) To what extent there has been the growth of education in the country

(c) What developments have taken place in the representative institutions in British India

Relation with the Indian State

66 These are primarily the three questions addressed to the Statutory Commission appointed under the terms of Section 84A of the Government of India Act An enquiry into the working of the system of government in India would necessarily entail not only an enquiry into the working of the government of India in the past, but also an enquiry into how the future government of India would stand vis a vis the provinces on the one hand and the Indian States on the other , while germane to the same discussion arises the question how far the establishment of a responsible government in India would trench upon the rights of the Indian States and what measures and safeguards are necessary to make that government independent of or subservient to the interests of these States

What if the Army Budget votable

67 It should be remembered that under the provisions of Section 67 (2) of the Government of India Act the Army, and the relation of the Government with foreign Princes or States, are excluded from the authority of the Legislative Assembly Now it is a fact that the forces of the Crown in India are responsible for the maintenance of peace in the Indian States and for maintaining the Indian Princes in their possession and power So long as the Indian Army is under the control of the Governor General and is non votable in the budget submitted to the Legislative Assembly the question of the relationship between the Legislative Assembly and the Indian States does not arise but if the Army budget is made votable it would give the Legislative Assembly at once the same power over the Army as it has over the Police

68 Then again, if the subject of finance is transferred to a minister and the Governor General's Executive Council is replaced by a Cabinet of wholly or partially elected members responsible to the Legislature it would equally thrust into the

forefront the numerous questions affecting the revenue of British India in relation to the Indian States some of which have already been enumerated before The question of the Indian States must, therefore equally have engaged the attention of our Committee

69 There is one more point to which a passing reference seems at this stage expedient It is an established principle of all federal constitutions that a neutral court should be established to uphold the constitution to settle differences between the federal and the states governments and to judge fairly between the executive and the legislature In all the major dominions such as Canada Australia and South Africa Supreme Courts have been established for this purpose The Act of 1919 established a skeleton form of federal government in the country So long as the Centre remained irresponsible to the legislature there was not the same necessity of establishing an independent tribunal as there is now when the central executive itself is to be made responsible to the legislature Most of the representative bodies including the scheme of the Indian Princes have recommended the establishment of some such Court in India There is thus a consensus of opinion in favour of the establishment of such a Court an opinion fortified by the cost and delay entailed by Indian appeal to His Majesty s Judicial Committee of the Privy Council We shall have to examine in fuller detail our recommendation for the establishment of a Supreme Court in India (§§ 251 264) A Supreme Court for India

70 We shall next proceed to examine the condition of each province and proceed to formulate our recommendations as to what advance we consider necessary We shall also then examine the constitution of the Central Government and adduce reasons in favour of our recommendation We shall then deal with the problem of the Indian States and other suggestions for the solution of the several questions that might arise and have arisen both in British India and in the Indian States Lastly we shall proceed to suggest measures for the reform of the Judiciary

CHAPTER II

A REVIEW OF THE PUBLISHED SCHEMES

I

THE ALL PARTIES' SCHEME

71 We have made frequent references to the Scheme prepared by the All Parties Conference. We have incidentally conveyed our own views thereon. But the hold it still has upon a certain section of our countrymen is our excuse for readverting to the subject. We have already given elsewhere the text of Pundit Motilal Nehru's amendment passed by the Assembly in the autumn of 1924 (§ 18). The main pivot of his motion as we have said lay not only in the demand for Dominion Status but in the further demand that in supersession of the procedure prescribed in Section 84A of the Government of India Act, the Government should convene a round table conference of the leaders of all shades of opinions with a view to settle the scheme of reforms acceptable to the people which should then be automatically enacted by the British Parliament. The demand was a replica of the demand of the Irish Nationalists to which we have already referred in some detail (§§ 49-52).

Lord Birkenhead's challenge to India

72 The British Government met this demand by suggesting that it was for the Indians to convene a round table conference of their own and formulate a scheme for a constitution which the British Parliament would consider though it could not undertake to abrogate its own responsibility nor pass it mechanically. This view was reiterated by Lord Birkenhead when moving for the appointment of the Statutory Commission. He said:—

> It is some times said by
> a round table Conference or
> upon the form of Constituti
> then for the British Parliament formally to pass it. This suggestion has not been lightly made. It has been seriously made by men who are entitled that their observations shall be seriously accepted. I can only make this comment. I have twice in three years during which I have been Secretary of State invited our critics in India to put forward their own suggestions for a Constitution to indicate to us the form which in their judgment any reform of the Constitution should take. That offer is still open. It is most expressly repeated as I shall show in a moment in the proposals which we make for the association of Indians with the activities of the Commission. But let it be plainly said—it cannot be too plainly said—that Parliament cannot and will not repudiate its own duties its own responsibility in this matter. If anybody seriously supposes either here

or in India that we are mechanically to accept a Constitution without our own primary and ultimate responsibility for judging upon it, they have no contact with the realities of the actual situation "[1]

73 The same Noble Lord had elsewhere used expressions which the Indian politicians construed to be a challenge to produce what may be deemed an "agreed scheme" After some informal discussions, to which one of us was a party, it was decided to convene an All Parties' Conference which held its sittings in Delhi, when after only a few hours' discussions it became apparent that the main obstacle to the formulation of an agreed scheme lay in the Hindu Moslem question, and that until that question was settled in a manner satisfactory to both parties there was no prospect of any such scheme A similar dilemma had confronted us some ten years earlier when we were constrained to enter into what has since become known as the Lucknow Pact One of us who was then present and had warned the then conference not to sow the storm has lived to reap the whirlwind of that ill fated action The Delhi Conference were again warned of the consequence that would flow from another short sighted pact which might result in a semblance of agreement but which would sow the dragon's teeth from which the only harvest possible is the clash of arms, which would before long reduce an organised state to chaos and may not before long involve it into an irredeemable cataclysm

Genesis of the All Parties Conference.

74 But the Conference were faced with a situation from which there could be no retreat They had challenged the Government to convene a round table conference the Government had adroitly turned the tables upon them and challenged them to try one for themselves They had tried but they could not afford to fail The challenge was to produce an agreed scheme that challenge could not be met otherwise than by the production of an agreed scheme In the exuberance of passion reason has no place In the conflict of interests reflection has no duty Compromises are notoriously makeshifts everywhere They seldom satisfy either side They are seldom adhered to if after they are made one can discover a loophole for escape Such was at any rate the case in the All Parties compact Rights were created expectations aroused and assumptions made without advertence to the realities of the situation or their effect upon the entire body politic of India However whatever may be the consequence both the laws of honour and chivalry demanded that the gauntlet thrown down must be taken up and whatever the consequence the honour of India must be maintained by the production of an agreed scheme It may be that the claim was a simulacrum a mere Dead Sea apple but still it looked an attractive [illegible] It had

1 Debates Dated 24th November [illegible] printed p. [illegible]

brought the elephant of Hindu majority and the tiger of the Moslem minority to the brink of a common pool It had made the two great peoples one when faced with a common misfortune Such at any rate were the hopes of those who mad another compact Such at any rate were the fears of those who stood by and watched the game

75 We have analysed this Report before (§§ 54 58) It safeguards the Moslem interests by the creation of a solid Moslem India in the West while it ensures their preponderance in the Presidency of Bengal by the innovation of universal franchise and resort to other devices to which we would advert in detail

Universal Franchise

76 The authors of the Report recommend the immediate introduction of universal adult suffrage The primary reason which drove them to this view may be stated in their own words for they say "At present the voting ratio between different communities is not the same as the population ratio Thus in the Punjab although the Muslims outnumber the Hindus and Sikhs combined the number of their votes is far less than the Hindu and Sikh voters This is due to the superior economic position of the latter We are strongly of opinion that this anomaly should be made to correspond with the population ratio With adult suffrage this happens automatically but with any other restricted franchise the only possible way to do it is to have different electoral qualifications for different groups and communities Thus the basis of representation of different communities cannot be uniform and this may be considered a grievance by some groups We were thus driven to the conclusion that the only solution is adult suffrage and we have recommended accordingly " (1)

77 It is thus clear that the device of adult franchise was adopted with the object of levelling up the Moslem ratio in the two Provinces of Bengal and the Punjab where though numerically in the majority they cannot muster the same voting strength on the property qualifications now governing the franchise The authors draw upon the Ceylon Report for a parallel and improve on it by enfranchising all women and not only those over 30 years of age Now the Ceylon Report points out that Ceylon is only 1/60th part of India in size and has only a population of about 4½ millions Their proposal would only enfranchise 1,850,000 persons whereas the Indian scheme would enfranchise nearly 100 millions a truly colossal figure to reach every three or four years Apart from its unworkability there is the question of education and the attainment of sufficient political consciousness enabling the voter to understand the value of his vote "The most advanced countries in the world" they say "did not wait to achieve a hundred per cent literacy before introducing adult suffrage Why should India ?" The answer is that India has never had the political experience of the countries where adult suffrage has only come by degrees

(1) Report pp 92 93

78 The other safeguards intended to placate the Moslem opinion are :— Other Safeguards

(1) Reservation of seats to Moslems on their population basis, they being free to contest other seats in the General electorates ,

(2) The grant of full autonomy to the North West-Frontier Province and Baluchistan ,

(3) The separation of Sind

As to the first, we have improved upon the recommendation which we trust may be found more acceptable to the Moslems, since our resolution concedes both to the Moslems and the Sikhs the reservation of seats on the basis of their population or their voting strength whichever is more favourable to them Some of us regard the reservation of seats in favour of any community as the creation of a close preserve which is foreign to the notion of democracy We know that our view is happily shared by several Moslem leaders themselves who are, however unable to stem the tide of communalism by any appeal to dry reason A *via media* had to be found and it is found in the Nehru Report, which we were glad to adopt At the same time we must not be understood to defend the system or offer any apology for adopting it, for we feel convinced that the creation of preference is foreign to the notion that the same people must all possess the same rights It has been said that in granting special seats to some classes such as the landholders and denying them to the communities we would be lending ourselves to the charge of inconsistency But we perceive no analogy between the two since it is open to any citizen to acquire land and become a landholder but one cannot without compromising with one's conscience join another community

79 We are also at one with the Nehru Report that while there may be some justification for reserving seats to a minority there can be no justification for extending that protection to a majority because as the Nehru Report has well put it "Reservation of seats for a majority community gives to that community the statutory right to govern the country independently of the wishes of the electorate and is foreign to all conceptions of popular government It will confine minorities within a ring fence and leave them no scope for expansion "[1] We have already given other reasons why we regard the reservation of seats to a majority is politically vicious and constitutionally inconceivable (§§ 59 61) No reservation for the majority community

We have looked at the question of constitutional advance in the two Provinces—the North West Frontier Province and Baluchistan—from a wholly different standpoint For the advance we have proposed in the North West Frontier Province we have given our reason under that head[2] No demand for any reform has come from Baluchistan nor are we

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1 Report p 43 2 Ch VII (IV) *post*

aware that that Province which borders on the neighbouring independent tribal states is thirsting for any measure of popular government It has only recently been weaned out of an age long paternal autocracy and it has a long way to go before its people will be ready for a radical change in the form of re sponsible government It is not for us to say how far in sympathy with the general advance elsewhere recommended an improvement in the machinery of administration of that Pro vince would not be expedient For it is a question upon which we have received no evidence documentary or oral—and we must therefore refrain from passing our judgment upon the future constitution of a country which to us has remained a *terra incognita*

80 The Nehru Report gives us no further light beyond the theoretical assumption that what is good for the Indian goose must be equally good for the Baluchistan gander But it all depends upon the gander *We cannot in justice and in logic"* they say deny the right of any part of India to participate in responsible government [1] to which we venture to add, that we cannot in justice or in logic grow on the Himalayan hill tops the crops we can grow in the valley of the Ganges

81 We have already dealt with the separation of Sind to which we shall advert again in the sequel [2] Apart how ever, from the communal solution which we have been able only to partially accept there is a great deal in the Nehru Report with which as our recommendations would show we are in cordial agreement and we feel that if the distinguished signatories to that Report had access to the materials which it has been our privilege to peruse it may be that their own con clusions would have been similar to our own

II

The Extreme Moslem Demands

Delhi Moslem Conference

82 An organised dissent from the proposals made in the Nehru Report was expressed by the All India Moslem Con ference popularly known as the Moslem Delhi Conference which was organised by several Moslem members of the Central Legislature It met at Delhi on the 31st December 1928 under the presidency of H H the Aga Khan when a series of re solutions hereinafter summarized were adopted In his presi dential address H H the Aga Khan wisely recalled certain truisms which may be categorised thus —

(1) It is impossible for Moslems to live happily and peacefully in India if friction and suspicion are to prevail between them and the Hindus

(2) At the same time there can be no prosperity and self government for India so long as Moslems are in doubt as to the safety of their cultural entity

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[1] Report p 31 [2] Ch IX *post*

(3) So long as India is dependent upon England for protection the latter must continue to claim a dominant share and voice in the Government of India "

Moslem demands.

83 It is noteworthy that while His Highness emphasised the need for unity and referred to the subject of separate electorates he left the whole question to the " Moslem population of this country to consider and solve without any prejudices " Sir Mohamed Shafi then moved the main resolution which embodies the Moslem demands made at the Conference

(1) That India should be granted a federal constitution with the Central Government possessing only powers to be defined by the constitution

(2) That the separate election of Moslems " is essential in order to bring into existence a really representative democratic government "

(3) That Moslems should have their due share in the Central and Provincial Cabinets

(4) That Moslems should be ensured their majority in the provinces in which the Moslem population is in the majority, and that in the other provinces their representation should continue as now existing

(5) That the Moslems should have 33 per cent representation in the Central Legislature

(6) That Sind be separated

(7) That Reforms be extended to the North West Frontier Province

(8) That the Moslems be given adequate representation in all public services having due regard to the requirements of efficiency "

(9) That no bill resolution motion or amendment " regarding inter communal matters " be moved discussed or passed by any legislature if a three fourths majority of the members of either the Hindu or the Muslim community oppose its introduction discussion or passing

(10) That adequate safeguards be made for the protection and promotion of Moslem education language religion personal law and Moslem charitable institutions and for their due share in grants in aid "

First demand

84 *It will be noticed that out of the ten points the first* makes a constructive proposal as to the future constitution of India while the remaining clauses deal with the Muslim share therein So far as the Moslem demand goes it is categorically in favour of the grant of complete provincial autonomy with the control of the Central Government limited to subjects to be specified by the statute

85 This demand is not conditional upon compliance with the other Moslem demands though it is added that the Muslims will not accept a constitution unless it conforms with the principle

of their resolution This statement is somewhat ambiguous in as much as it might either imply what the lawyers would call a condition precedent or merely a condition subsequent That it was used in the latter sense would appear from the indignant protest addressed to us by Sir Mahomed Shafi who appeared soon after a Hindu Witness had ejaculated that his community wanted no reforms unless the conditions he had mentioned were to be complied with Sir Mahomed said that the attitude of his community was not so unpatriotic as to thwart the progress of India merely because it did not meet with the wishes of any single community At the same time he made it plain that the Delhi resolutions stood as the demand of Moslem India

86 In this connection it is well to recall the circumstances which preceded the Delhi Moslem Conference Till that body met the only organised communal body that voiced the special claims of the Moslems was the All India Moslem League of which Mr Mahomed Ali Jinnah is the life President In subscribing to the Nehru Report Mr Jinnah threw the weight of his authority in favour of joint electorates Other notable Moslem leaders like the Maharaja of Mahmudabad and Sir Ali Imam adopted the same course from which a dissent however soon manifested itself in the issue of a manifesto over the signatures of some twenty eight Muslim members of the Central Legislature declaring that no scheme would be acceptable to the Moslems of India which did not provide effective and adequate protection of their interests Following up this manifesto several of the signatories organised a larger conference which met at Delhi as already stated It was a counter move to the Nehru Report and as we have examined the latter we feel constrained to equally examine the proposals of the Conference which was to have been followed by other meetings so as to sound and voice the opinions of all Muslim India This course is suggested by H H the Aga Khan in his Foreward prefacing the Conference Report We are not aware that many such conferences were held At the same time our itinerary has convinced us that widespread apprehensions undoubtedly exist amongst the Moslems of India that in the future constitution of India their community may not secure their due share of political power That this is a perfectly natural apprehension aroused not only in the minds of the Moslems but of all other minor communities including the Depressed Classes the Sikhs the Europeans the Anglo Indians and classes such as the land holders and representatives of large commercial interests That any change from the normal stimulates curiosity and the timid begin to see daggers in the air is a well known human failing but it is a failing grounded on fear and we have to allay that sentiment so far as we can by argument and reasonable concessions We cannot do more and even if we did we should be imperilling the very purpose we have all in view that India should rise to her full stature of nationhood and be once

more a shining example of a well governed contented country. It is with that sole objective in view that we shall apply our mind to the examination of the Moslem demand

87 Our Committee have, it is trusted, wholly carried out the tenour of the first and last resolutions though we have been an able to give effect to the other demands in their entirety for reasons which call for an explanation which we propose to subjoin in the same order in which we have categorised the demands

Separate electorates

88 The crucial demand of the Moslems is in favour of a separate electorate Our Committee spent most anxious days considering how to meet this claim without materially trenching upon the fundamentals of a "really representative democratic government" which is the avowed objective of the Moslem Conference Now as we understand the meaning of democracy it seems to postulate the government of the people by the people through their accredited representatives, and, as such it is wholly opposed to communal electorates, since such electorates have avowedly the purpose of returning their representatives who owe allegiance to their own community and none at all to the people Since the Moslem Conference demand the establishment of a democracy in India we fail to understand upon what ground they are able to reconcile a demand for a separate electorate with the foundation of a democratic constitution But technicality apart we will assume that what the Moslems demand is not really democracy but a less ambitious substitute for it—say a form of representative institution Even in that case we are unable to find any precedent for the claim made We have consulted all the literature available to us on the subject and we have failed to discover any case in which two or more large communities return their representatives to the National Parliament upon the basis of communal constituencies On the other hand a perusal of all the constitutions of other countries available to us has convinced us that all popular governments owe their allegiance to the people as a whole apart from their religion language or race

League of Nations

89 As we shall show under the next heading the subject has engaged the attention of the League of Nations who after exhaustive enquiries conducted over many years have reported considered conclusions which lend no countenance to even the allotment of seats in a joint electorate—a concession which we have made at the sacrifice of our conviction We cannot justify even this departure because as we shall presently show statesmen politicians international jurists and impartial observers of all shades of opinion are agreed on the mischief and danger arising from communal electorates Our Moslem friends admit that separate electorates are not an ideal to be aimed at but they wish to prolong the system on the ground that the special claims of the Moslems in India justify their retention It becomes necessary therefore to examine their claim and the peculiar circumstances of India to which reference is made by the speakers and publicists dealing with the question

Reasons for the Moslem demands

Judging from the evidence taken on the subject in India the claim of the Mahommedans to separate representation is based on the ground that as a community they are backward both educationally and economically, that is compared with the Hindus they have not had the advantage of English education, or what comes to the same thing they have not been able to take advantage of it to the same degree as the Hindus, and that therefore they are not able to run an even race for political power with the better educated Hindus who would swamp the councils and drive them into a corner if separate electorates are done away with This argument postulates that the Moslems being backward should be given a larger measure of political power The Hindus complain that if the Moslems who are confessedly a backward community are given an undue proportion of political power they might act as a drag on the political progress of India and that it is a political heresy to *permit a backward community to rule or materially influence the* policy of an advanced community

Moslem demand a share in the Public Services

90 The claim of the Moslems to a share of the public service now extended even to a share in the Cabinet appointments is repelled *on the same grounds The arguments of the* Moslems do not seem to be quite consistent for while at one time they claim special protection on the ground of their backwardness at other times they claim it on the ground of their historical and political importance but if so it is all the more reason why they should be able to stand on their own since the people to whom is to be entrusted the future government of the country would not be oblivious of their importance because the Indians are conservative by instinct and do give historical and political considerations their due weight

91 A more plausible argument which has a great deal of force is that of the religious antagonism between the Hindus and the Mahommedans The Mahommedans complain that the religious feeling between the Hindus and the Mahommedan obscures their better judgment and makes them take sides on questions not upon their intrinsic merit but upon extraneous grounds That this is at times the case cannot admit of doubt *but the remedy proposed would aggravate the evil for it would* apportion the political power between two opposing sections of the Indian electorate and in the tug of war between them the real issues would be obscured

Reasons criticised

92 The reason given for separate electorates is therefore a strong reason for doing away with them Common electorates would not exacerbate but alleviate communal conflicts by making both communities feel their mutual dependence while the perpetuation of communal electorates would constantly place before the electorates their religious differences and tend to fan the flame of religious animosity leading to the disturbance of the public peace and generally hamper the machinery of the Government The Moslems like all minorities are entitled to

preserve their language, religion and culture and the constitution given will provide for safeguarding these as is done in the treaties of various nations of Europe, without having recourse to separate electorates That the Moslems want a share of the practical things—or, to put it in a more popular phrase, a share in the loaves and fishes of the office—admits of no doubt It is a perfectly natural and intelligible ambition of a people, but the Moslems cannot forget that over and above the communal and individual claims there stands the integrity and efficiency of the State, and that it cannot be permitted to be shaken for the benefit of any community It is a truism that every man wants the best value he can get for his money the State is only an aggregate of individuals and consequently the State has a right to expect and demand the best value for its money It must, therefore place efficiency above all other claims, whether it is in the public service or in the discharge of a political or public responsibility

93 Considered therefore, in this light, the Moslems have no right, nor indeed any justifiable claim to separate electorates, and what is more, to the reservation of seats in the Cabinets or in the public services But at the same time we cannot lose sight of the hard fact that a strong political agitation has been set up in the country which cannot be dismissed upon *a priori* grounds We shall have to work with the co operation of our fellow countrymen and until they assume a more reasonable frame of mind we shall have to accede to their demand provided it is not too unreasonable It seems to us that such a demand can be satisfied by conceding to them a reservation of seats on a population basis and we have gone even further, so as to arouse in them a feeling of civic responsibility by making them participants in a general election that is to say over and above the minimum seats reserved Mahomedans shall be free to vote in the general constituencies in which they will be eligible to contest other seats This is the utmost limit to which the dictates of reason and prudence can dilute the general efficiency of the administration It contains within itself a germ for the decay of the body politic but we hope that the antidote will be soon found in the growing feeling of solidarity and the spirit of patriotism which would lead the members of Moslem opinion to reconsider their position from the standpoint of a broader and a wiser statesmanship

94 In this connection it must be borne in mind that the [illegible] though condemned in the [illegible] provincial Govern[illegible] ible Government" Lucknow Pact spent

[illegible]

was accepted by the Southborough Committee not upon its own merits, but because both the Hindus and the Mahomedans wanted it in pursuance of their Lucknow Pact[1] The

1 Report §§ 231 232

pact has since been repudiated by the Muslims and following their repudiation the Hindus have learnt to regret that it was ever made That pact being out of the way there is nothing left to justify communal electorates The Government of India were always opposed to them for in their Fifth Despatch on the Indian Constitutional Reforms they wrote

We feel the objections of principle to the communal system as strongly as the authors of the Reforms Report but see no advantage at this stage in reiterating them India is not prepared to take the first steps forward towards responsible government upon any other road The road does not lead directly to that goal and we can only echo the hope expressed by the Committee that it will be possible at no very distant date to merge all communities in one general electorate "[1]

95 The communal electorates were thus admittedly a departure from the principle made not in consequence of any promise given by Lord Minto in 1906 or Lord Morley in 1909 since neither contemplated making a radical change in the constitution of India which was for the first time promised by the Declaration of August 1917 and brought into being by the Act of 1919 They were made because of the Pact and because both the communities wanted it It was expressly made as a temporary device and it was hoped that at the next revision it would not be necessary to continue it Both parties to the Pact have now thrown up the Pact The two parties no longer jointly ask for its continuance The Hindus solidly oppose it The bulk of the Moslems wish to continue separate electorates not on the basis of the Lucknow Pact but upon a new basis more favourable to their community They cannot be permitted to have it both ways If they had adhered to the Pact there would at least be the saving grace of consistency in their favour If they had claimed for their own majority what they were prepared to concede to the Hindu majority there would have been the merit of fairness in their favour But they choose to play for their own hand and want the Hindus to settle with the other minorities as best they can The Hindus might well exclaim that while they have done many things to be sorry for in the past they cannot consent to make *hara kiri* of the nation on this occasion

96 One thing is certain the Pact itself is dead It was jettisoned in the Nehru Report it was repudiated in the Moslem League Resolutions and every shade of Moslem opinion has condemned it as failing to achieve its purpose—a conclusion in which we heartily agree We know the history of the Pact It was made as a dramatic gesture of national unity Neither party anticipated that it would be translated into a real article of the covenant and both sides are now agreed that even as a dramatic pose it was overdone in that it made concessions and

[1] Despatch No 4 of 1919 dated 23rd April 1919 para 18

created hopes which were as hollow as they were incapable of any degree of fulfilment, and some of its protagonists were as amazed that their scheme was embodied in an authentic record as would be the members of the All Parties Conference if their scheme were embodied in the Revised Reform Act

97 It seems to us, moreover, that the great national questions cannot be decided upon the basis of preceding pacts, we cannot hypothecate posterity for the sake of a doubtful peace in the immediate future, we must decide each question upon its own merits and we must not forget, whatever we do, that *salus populi suprema lex*

98 It has been suggested that pernicious though the doctrine of racial elections be, it might still be given a further lease of a short life by limiting it to, say, a period of five or ten years We would have gladly yielded to this device were we sure that it would prove the panacea for peace in the country, we fear that far from being so, such a course would keep alive, and even stimulate, a communal agitation of which the clause in question would be made a handy weapon Whatever we do we should not commit the mistake if we cannot avoid the folly, of pre scribing for a transitory constitution

99 We have applied our minds to the counter proposals made by our two esteemed colleagues as protagonists of the extreme view They probably do not see to what extent their two pro po als defeat their own purpose Sir Zulfiqar Ali Khan's pro posal claims weightage in favour of minorities, but when he was [illegible] weightage [illegible] emphatic [illegible] ither pro- posal strikes us as [illegible]

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Lord Minto's promise

101 In the evidence given in India some reference was made to Lord Minto's promise to give the Moslems separate representation, that promise was fulfilled at the ensuing reforms against which the promise was made It could not enure for all time even where the entire structure of the Government is altered As Lord Chelmsford said at the opening of the new Legislature in 1921 —

> "The conclusion at which we arrived was that British policy must seek a new point of departure, a fresh orientation On the lines of the Morley Minto Reforms there could be no further advance"

It is only when such government becomes a possibility that an antithesis between the two becomes apparent So long as the function of the councils was merely advisory and the keys of the administration were held by the bureaucracy the separate representation of the Mahomedans could only gratify their sentiment without endangering the machinery of administration. But the case becomes different when the sceptre of authority is transferred from the sovereign to the people It is only then that the people must receive it with joined hands, they cannot divide it without undermining the basis of authority A new policy adumbrated by the declaration of 1917 called for a new outlook The Montagu Report recognises this obvious fact, but though lamenting it, had to yield to the Lucknow Pact as a *via media* which it had to follow, though it did not approve of it Ten years have since passed and the religious chasm between the two peoples, already wide, has become wider It calls for the necessity of a bridge and it is hoped that a declaration of their national unity initiated by a common electorate, may accelerate a transition from the semblance to the real which all lovers of India desire to see This fruition will become easier if the age long social barriers to social intercourse and intermarriage are removed May the mother of Parliaments impart her tried wisdom in this respect to her youngest offspring and may the child ponder over the thought that as the race is greater than the man so the State is greater than the race, and whatever is conducive to its well being and progress is well worth a small sacrifice both of the man and of the race

Separation of Moslem India.

102 We have already commented upon the proposal to create a solid Moslem enclave along the Indus If the frontiers of the Muslim world are proposed to extend from the Punjab to Karachi, ... es of
there must be some policy
both communities have so
the fact remains, and has
want the altered boundaries because their co religionists in Sind stand in the majority of 74 to 26 and the North Western Frontier Province and Baluchistan are both essentially Moslem provinces

But we have still to learn how the springing of full fledged responsibility upon those Provinces will be conducive to the peace and good government in the rest of India not excluding them We should not be understood as in the least implying that

forms would mean only a figure of speech which may even retard their healthy development and growing self consciousness

103 We have already dealt with both sides of the question regarding the separation of Sind upon its own merits which is further the subject of a note of dissent (Ch IX (II)), and though the majority have applied to it the principle of self determination we leave its final solution to Parliament For the same reason, we do not wish to advert here more fully to the question of extending the same measure of reforms to the North West Frontier Province [1] Separation of Sind

104 The next demand that Muslims should be given adequate representation in all public services cannot be supported by any *a priori* ground or the precedent of other countries It is a general principle that as a man is wise in getting the best servant he can obtain for his money so the State to be wise must equally apply other people s money of which it is a custodian and a trustee by employing the best servants it can secure for them All the same the same rigid regard to axiomatic principles does not obtain in the case of States as it does in the case of individuals—and a departure from the normal would be justified if it is likely to be conducive to the better satisfaction of all its component communities With this principle in our mind we have provided for the adequate representation of all communities in the public services but we hope that in the application of this principle to individual cases or communities the primary condition of efficiency will not be sacrificed—for every child in the nursery knows that for want of a nail the shoe was lost and for want of a sufficiently efficient public service the peace and progress of the entire State might be placed in jeopardy It is not so only in security services since there can be no such thing as a security link in a chain of interdependent services who are called upon to take concerted action and to bring into play all their reserve strength in the face of a crisis on an occasion of emergency Share of the Public Services

105 In another chapter we have quoted the opinions of the several Provincial Governments who complain of the canker worm of communalism as eating into the very vitals of local bodies [2] (§§ 1??) It is said that since both the Hindu and the Muslim systems are based upon rigid religious sanctions and for centuries the two communities have made religious

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[1] See Ch VII (III) [2] See Ch III (II)

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101 In the evidence given in India some reference was made to Lord Minto's promise to give the Moslems separate representation, that promise was fulfilled at the ensuing reforms against which the promise was made It could not enure for all time even where the entire structure of the Government is altered As Lord Chelmsfor said at the opening of the new Legislature in 1921 —

> "The conclusion at which we arrived was that British policy must seek a new point of departure, a fresh orientation On the lines of the Morley Minto Reforms there could be no further advance"

It is only when such government becomes a possibility that an antithesis between the two becomes apparent So long as the function of the councils was merely advisory and the keys of the administration were held by the bureaucracy the separate representation of the Mahomedans could only gratify their sentiment without endangering the machinery of administration. But the case becomes different when the sceptre of authority is transferred from the sovereign to the people It is only then that the people must receive it with joined hands, they cannot divide it without undermining the basis of authority A new policy adumbrated by the declaration of 1917 called for a new outlook The Montagu Report recognises this obvious fact, but though lamenting it had to yield to the Lucknow Pact as a *via media* which it had to follow, though it did not approve of it Ten years have since passed and the religious chasm between the two peoples, already wide, has become wider It calls for the necessity of a bridge and it is hoped that a declaration of their national units initiated by a common electorate, may accelerate a transition from the semblance to the real which all lovers of India desire to see This fruition will become easier if the age long social barriers to social intercourse and inter marriage are removed May the mother of Parliaments impart her tried wisdom in this respect to her youngest offspring and may the child ponder over the thought that as the race is greater than the man so the State is greater than the race, and whatever is conducive to its well being and progress is well worth a small sacrifice both of the man and of the race

Separation of Moslem India

102 We have already commented upon the proposal to create a solid Moslem enclave along the Indus If the frontiers of the Muslim world are proposed to extend from the Punjab to Karachi, there must be some policy behind the proposal on which leaders of both communities have so far preserved a discreet silence But the fact remains, and has been pressed upon us that the Moslems want the altered boundaries because their co religionists in Sind stand in the majority of 74 to 26 and the North Western Frontier Province and Baluchistan are both essentially Moslem province

107. The fourth demand is even more unreasonable for what the demand amounts to is this, that in the Provinces of Punjab, Bengal and Sind, if it is separated, the Muslims should be assured *of the majority of seats in the Legislature, and in the other* Provinces where they are in a minority they should continue to enjoy their present weightage This is clearly a case of heads I win and tails you lose For if the Mahommedans are to *receive weightage in the Hindu Provinces why should not the* Hindus equally receive weightage in the Punjab and in Bengal where they are in a minority? The Mahommedan protagonists of this view repudiate the unfortunate Lucknow Pact which compelled Mr Montagu to suffer separate elections That Pact does not give the Muslims a decisive majority in these two Provinces, while in others, by way of a set off, it fixes a proportion in excess of their number Under the Montagu Scheme this proportion is altered so that it is even more favourable to Musalmans as is apparent from the following table — **Statutory majority.**

Provinces	Hindus	Muslims	Under the Lucknow Pact out of only *elected* seats [illegible] 70 to 75 [illegible]	Under the Reforms out of the *total*
			Per cent	Per cent.
Madras	37 511 012	2 840 488	15	13 2
Bombay	14 814 720	3 820 153	40	31 2
Bengal	20 203 527	25 210 802	33 3	31 3
United Provinces	38 40[illegible] 624	[illegible] 481 032	30	29
Punjab	6 379 888	11 444 321	50	47 8
Bihar and Orissa	28 161 118	3 6[illegible]0 18[illegible]	25	23 6
Central Provinces	11 6[illegible]1 398	563 [illegible]74	15	12 7
Assam	4 13[illegible] 41[illegible]	2 [illegible]0[illegible] 40[illegible]	[illegible]	30 7

108 The statutory insurance of a fixed majority for any com munity is as we have already pointed out the very antithesis of [illegible] democratic or representative
any [illegible] despotisms are by
It is [illegible] of the despots by
the [illegible] those who might
the communi[illegible] [illegible] tolerant of the oppo[illegible]tion Their
have shown themselves more tolerant of the opposition Their retention in power is doubly insured by the statute and the *nexus* of religion They might be guilty of the worst abuses corrup tion jobbery organised oppression intolerable tyranny but the opposition would be powerless to correct the abuse or thwart their action A revolution is the only thing left to them but the statute transfers the duty of quelling it to the Central Govern ment who *nolens volens* must keep the despots in power for even if they should pause there at the 33 per cent of the Moslems in the Central Legislature to force their hand —and 33 per cent count

One-third Moslem representation in the Central Legislature

109 The demand that the Moslems should have 33 per cent of the members of the Central Legislature is based on no intelligible principle Why should the Muslims demand 33 per cent when their number entitled them to no more than 27 per cent? And if they claim weightage, why should not the other minorities do the same?

Separation of Sind

110 The next Muslim demand that Sind should be separated from Bombay and given a separate similar constitution can only be justified on the ground which underlies the entire fabric of the Muslim demand, namely, that the Muslims desire to partition off the Hindu from the Muhammadan India, and hold the Hindu minority in the latter as hostages for the good behaviour of the Hindus elsewhere This is not democracy, not even a colourable imitation of it It is the establishment of an armistice with all the strategic positions surrendered to the adversary The effect of this proposal, if acceded to, would, as is apparent, make the Moslems in five provinces supreme and their government impervious to the criticisms, or the attack of the opposition And yet H H the Aga Khan, in his presidential address, pleaded for mutual trust and confidence For did he not say "It is impossible for Moslems to live happily and peacefully in India if friction and suspicion are to prevail between them and the Hindus" Is the Moslem scheme calculated to remove or even reduce friction or allay suspicion? It seems to us that the only panacea for engendering mutual confidence is to make the two communities inter-dependent The extreme Moslem scheme makes for a perpetual cleavage and not for cohesion Even the Moslem India would be at the mercy of such an oligarchy For the Moslems who may feel oppressed by their own majority can never appeal to their Hindu brethren for assistance in their helplessness And yet His Highness the Aga Khan charged the Conference "to organise all the Moslem members of each and every council into a body where exchange of views and ideas and communication of the same to the elector as well as the reception of the general desires of the masses would remain the main purpose and object" "In politically successful countries," he added, "from the Prime Minister or the President to the humblest voter, it is but one succession of nerve lines of communication".[1]

Gag on the Legislatures

111 Of all the demands the ninth appears to us to be the most objectionable and least defensible, since we are seriously advised that the Imperial Statute should prescribe that no Bill resolution, motion or amendment "regarding the inter communal matters" shall be moved, discussed or passed by any legislature if three fourths of the majority of members of either Hindu or Moslem community oppose its introduction, discussion or passing In the first place, the resolution is silent

[1] Conference Report, p 21

as to who is to decide that the subject is one "relating to inter-communal matters" In the second place, suppose it affects two or more communities can the majority of a single community, however small and insignificant shut out from debate all such matter though the other communities comparatively large and important favour its passing Thirdly, what is an inter-communal matter? The Hindu and Mohammedan religions are all embracing and their impact upon social and even economic questions are sometimes so subtle and so far reaching that almost any subject worth the name might conceivably raise such an issue Fourthly, how is a member to show that it is not an inter communal matter if he is to be gagged at the outset? Fifthly, how can there be any progress by ruling out at their very threshold all progress and measures of social reform how ever beneficial? Sixthly if this resolution were adopted, would not the communities remain rigid and hide bound living fossils of a by gone age and how is a national life to be evolved out of such statutorily made stagnant heterogeneous communities? Lastly, is it "democratic" to muzzle the voice of democracy *by such an exasperating* piece of legislation which renders the very mention of inter communal matters taboo in a Legislature?

112 Arguments yield place to astonishment when such resolutions are solemnly passed at a public conference by a responsible body of men many of them men who have justly earned a reputation for level headed statesmanship

113 Lastly we happily come to a demand which we can heartily reciprocate for it is a righteous demand for the protection and promotion of Moslem education language and personal law We would commend this desire to promote the personal law not only of the Moslems but that of the Hindus which is in many respects out of date and needs to be modernised We do not know what is implied by the promotion of the Moslem religion nor have we quite grasped the significance of the Moslem claim to a due share in grants in aid since no grants-in aid are made to Hindus or indeed to any community as such and we entirely deprecate any such grants in aid unless it be for affording special facilities for educational purposes Protec *Moslem* intere

114 We have commented at some length upon this set of resolutions because they have even been pressed upon our notice by two of our Moslem colleagues and outside our own rank there is a feeling widely entertained that *the Delhi Conference has* given the final password to Moslem aspirations and Moslem claims Some of us who love that great community and wish it to grow up and rise in the scale of world's estimation feel sorely distressed at the intransigent attitude displayed in these and similar resolutions We know that many Moslem leaders are out of sympathy with them but we equally appeal to those who have their country's interest at heart to employ a larger vision and take a longer view of the political problems and remember that the tumult and turmoil of today is but transient and passing

concluded after the Crimean War From that date the question of racial or religious minorities received greater attention from Governments It should be noted however that the question was only raised on certain historic occasions such as that of the incorporation of the territory of one State with that of another or that of territorial reconstructions resulting from war or that of the constitution of new States or that which resulted from struggles on the part of certain States against the oppression of other States Examples of this were the Treaty of Berlin on July 13th 1878 which imposed religious toleration on newly created States and on autonomous principalities (Bulgaria Serbia and Roumania) as an indispensable condition to an international recognition of their existence, and the Treaty of Vienna (May 31st 1815) between the Netherlands Great Britain Russia Prussia and Austria regarding the reunion of Belgium with Holland

* * *

A minority as defined by the treaties assuring its protection is not only a racial group incorporated in the body of a nation of which the majority forms a different racial unit There is also a psychological social and historical attribute constituting perhaps for the purpose the definition which we are seeking its principal differential characteristic The mere co existence of groups of persons forming collective entities racially different in the territory and under the jurisdiction of a State is not sufficient to create the obligation to recognise the existence in that State side by side with the majority of its population of a minority requiring a protection entrusted to the League of Nations

* * *

The introduction into the laws of all countries of provisions protecting minorities would be enough to cause them to spring up where they were least expected to provoke unrest among them to cause them to pose as having been sacrificed and generally to create an artificial agitation of which no one up to that moment dreamed It would be rather like the imaginary illnesses from which so many people think themselves suffering the moment they read a book on popular medicine

* * *

It seems to me obvious that those who conceived this system of protection did not dream of creating within certain States a group of inhabitants who would regard themselves as permanently foreign to the general organisation of the country On the contrary they wished the elements of the population contained in such a group to enjoy a status of legal protection which might ensure respect for

the inviolability of the person under all its aspects and which might gradually prepare the way for conditions necessary for the establishment of a complete national unity

* * *

"We must, he said avoid creating a State within a State We must prevent the minority from transforming itself into a privileged caste and taking definite form as a foreign group instead of becoming fused in the society in which it lives If take the exaggerated conception of the autonomy of minorities to the last extreme these minorities will become disruptive elements in the State and a source of national disorganisation

* * *

"The decision has been taken not only to protect as before *individuals considered separately* but to a certain extent to attribute rights to *minorities regarded as collective entities* There is thus formulated for the first time the rights of minorities as such as organised unities We no longer confine ourselves to considering that the rights of minorities are individual rights The minority is regarded as a whole and this minority is recognised in a sense to have a right of organisation or autonomy This is a solution which perhaps is not without certain dangers for if equality of treatment of all the inhabitants of a country is an element of political and social peace the recognition of rights belonging to minorities as separate entities by increasing their coherence and developing among them a sense of their own strength may provoke them to separate themselves from the State of which they form part, and in view of the right of peoples to dispose of themselves the recognition of the rights of these minorities runs the risk of leading to the disruption of States

View of a British Minister

Sir Austen Chamberlain associated himself with the views of M de Mello Franco adding —

"It was certainly not the intention of those who had devised this system as M de Mello Franco has remarked to establish in the midst of nations a community which would remain permanently estranged from the national life"

This view was unanimously acceded to even M Mehdi Frasheri representative of Albania did not place his country's claim on a higher basis indeed on the contrary he admitted the injustice of the claim that the Albanian minorities in Greece should be subject to the normal procedure

Minority in Canada.

110 The subject of the claims of minorities has engaged the attention of British administrators from very early times The question of the French and British subjects in Canada called for an expression of opinion on the part of Lord Durham who

in a celebrated despatch which culminated in the new constitution now enjoyed by that country, referred to the bitter hostility existing between the two races which had been carried to the extent of complete social estrangement The new constitution provided for a common electorate, and it is well known that the French and English are now on the friendliest terms, which would not have been the case if the cleavage which existed before the grant of dominion status to that country had been further widened by the creation of separate electorates In the United States of America there are nineteen conflicting races, but it has been the policy of the United States to assimilate these races into a harmonious whole, and that purpose is in the process of fruition, consequent upon their subjection to a common electorate and a common constitution The same view has prevailed with the framers of the South African constitution where the conflict between the Boers and the British resulted in the South African War, on the close of which, while the two nations remained distinct and are up to the present moment antagonistic they have nevertheless a joint electorate and neither has a claim for special protection on the ground of its linguistic racial ethnological cultural or historical differences In *New Zealand* where the Maoris are in direct contact with the whites there is we believe, no separate electorate

View of the Ceylon Reforms Committee

120 In the case of Ceylon the question engaged the attention of Lord Donoughmore's Committee, who have done away with communal representation in the Ceylon Legislative Council, and wrote of it in the following terms —

"It is generally agreed that communal representation is least desirable when on a religious basis Religious tolerance is essential in a country with any approach to democratic institutions and there should be no need for the protection for a particular faith which special representation of that faith in the Legislature implies The main ground on which the claim for this representation is made is that certain laws and customs of the Muslims based on their religion, differ from those of the larger communities and that disabilities in these matters might be imposed by the Legislature in the absence of Muslim spokesmen It was, however admitted by Muslim representatives who appeared before us that if this occurred it would be by no deliberate intention but through ignorance or misunderstanding It is the hope of the Commission that the carrying out of the recommendations of this Report will not result in the absence of persons of the Muslim faith from the Legislative Council, but that these will obtain entrance as territorial members and not as religious representatives Even if that were not to happen, however, we suggest that a representative body of Muslims appointed by themselves to safeguard those special interests which are thought likely to be affected, would be in a position to make representation to the Legis-

lative Council, and would almost certainly secure fair and just consideration of any questions at issue Apart from this, the increased powers suggested for the Governor in another part of the Report would be available to prevent injustice to Muslims as to any other minority community This view may not be immediately acceptable to the general body of Muslims, but we are satisfied that there is little fear in the interests of Muslims themselves that communal representation for them should cease and that they should now be identified with the general electorate It is interesting to note the disintegrating effect of communal representation on the community itself as illustrated by the case of the Muslims in Ceylon . . Their merging in the general electorate will link them up more definitely with the other communities of Ceylon as an element in a population which, though diverse in character, has yet a common country and should possess a common national consciousness "[1]

"It was generally admitted, even by many communal representatives themselves, that the communal form of appointment to the Legislative Council was a necessary evil and should only continue until conditions of friendliness and acknowledgment of common aims were developed among the different communities It is our opinion however that the very existence of communal representation tends to prevent the development of these relations and that only by its abolition will it be possible for the various diverse communities to develop together a true national unity "

"Communal representation in Ceylon has no great antiquity to commend it and its introduction into the constitution with good intention has had unfortunate results As has already been suggested it tends to keep communities apart and to send communal representatives to the Council with the idea of defending particular interests instead of giving their special contribution to the common weal "[2]

121 Finally, they recommended that communal representation, which has been baneful to the growth of civic responsibility and the development of a common bond of citizenship should be done away with Their reasons apply with equal if not greater force to the Mahommedans of India

View in the Montagu Report.

122 In the Montagu Chelmsford Report there are frequent references to the Hindu Muslim question and while the authors strongly deprecate the recognition of communal claims to a separate electorate they were constrained to give effect to them, because of the existence of the Lucknow Pact by which they felt themselves bound [3]

1 Ceylon Reforms Report pp 93 94

2 Ib p 93

3 Report §§ 227 231

123 After careful review of the conditions prevailing in many countries the learned authors of the Report say as follows —

> We conclude unhesitatingly that the history of self government among the nations who developed it and spread it throughout the world is decisively against the admission by the State of any divided allegiance against the State's arranging its members in any way which encourages them to think of themselves primarily as citizens of any smaller unit than itself [1]

They then add —

> A minority which is given special representation owing to its weak and backward state is positively encouraged to settle down into a feeling of satisfied security it is under no inducement to educate and qualify itself to make good the ground which it has lost compared with the stronger majority On the other hand the latter will be tempted to feel that they have done all they need do for their weaker fellow-countrymen and that they are free to use their power for their own purpose The give and take which is the essence of political life is lacking There is no inducement to the one side to forbear or to the other to exert itself The communal system stereotypes existing relations We regard any system of communal electorates therefore as a very serious hindrance to the development of the self governing principle

124 Finally however as already stated the authors of the Report had to accede to prolonging the system of separate representation in spite of their condemnation owing mainly to the existence of the Lucknow Pact Its effect upon the local bodies and on the councils is reported to be throughout detrimental to their usefulness and efficiency

Hindu Moslem tension.

125 In the course of the evidence given before us in India both communities admitted that the communal tension between the two great communities—the Hindus and the Moslems—had become intensified and that it had been the prime cause of frequent outbreaks of lawlessness But while the Hindus as a body ascribed this growing tension to the introduction of separate electorates the Moslems as a body denied it but a perusal of the several memoranda submitted to us by the Provincial Governments have convinced us that separate electorates have tended to inflame communal passions and communal representation in the local bodies has tended to growing communal bitterness In our Chapter on the working of Government we have quoted the opinions of sever[al] me[n]ts notably that of the Punjab where com[munal] have converted the local bodies into cockpits for [con]flicts rather than instruments for the dispo[sal]

1 Report § 228

resulting in their paralysis and which threatens to be permanent A similar fate awaits the local councils where similar tendencies are growing to which some local governments ascribe their partial failure

126 Thus the United Provinces Government reports " communal feeling was strong though usually latent in the second council It is still stronger in the present legislature, though for tactical reasons the nationalists and swarajists have refrained from bringing forward any motion which would be regarded by the Muhammedans as a direct challenge—an attack, however, by a member of one community on a Minister or member of the Executive Council, belonging to that community is viewed with suspicion by the co religionists of the latter, who generally rally to his support ' [1]

127 In the Punjab dyarchy was reduced to a mere communarchy, if we may coin a word, under which one community in power supported its members and ministers and kept at bay those similarly arranged to dethrone them It warped the sound sense of the members and turned debates into racial forays To quote the Official Report " The growing bitterness of feeling between the Muslims and Hindus has of course had its effect on the proceedings of the council, and there have latterly been few debates in which the communal tone has not been prominent Communal feeling in the council probably reached its highest point in Money lenders Bill in July 1926 a few weeks after the rioting at Rawalpindi which had resulted in many fatalities and much destruction of property [2]

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portant division it is seldom safe to assume that all members of a party will obey the party whip On such occasions it is common to see small groups of members engaged in animated but confidential conversations in the lobbies and waiting rooms and occasionally members are induced to absent themselves from the divisions or even to vote in opposition to the majority of their party by personal appeals *One may infer that the* Punjab politician has still to learn the advantage of party solidarity ' [3]

128 That the communal virus has infested not only the councillors and members of local bodies but is corrupting all grades of society from the highest to the lowest was strikingly demonstrated by the Report of the Indian Bar Councils Committee who while recommending the formation of Bar Councils in all the High Courts had to draw a line against Punjab where owing to the prevalence of communalism it was considered unsafe to entrust the fate of legal practitioners to a Bar Council and in

1 Report P

2 Ib P

3 Ib

the subsequent debate on the Bill no attempt was made to controvert this fact or to remove the invidious exception which deprives Punjab of the privilege of an autonomous Bar Sir Mahomad Shafi, who is a distinguished member of that Bar, could not be unaware of the intensity of feeling engendered as the Official Report points out in another connection, by the periodical visualisation of the antagonism between the three rival communities who place the advancement of their own communal interest as the primary duty with which the fact of separate representation naturally charges them

It is unnecessary to multiply quotations, because as we have shown statesmen, politicians, international jurists, the Provincial Governments and impartial observers of all shades of opinion are agreed on the mischief and danger arising from communal electorates, which were reluctantly conceded in the existing constitution owing to a *stare decisis* which no longer holds good

Lord Minto's assurance

We have already dealt with the implications of Lord Minto's promise and pointed out that even if that promise were to enure for all time, a new constitution in consistence with it can only be worked even if some sacrifice has to be made [1]

129 But no such sacrifice is necessarily involved in the recommendation the majority of us have decided to make For, as will be apparent from the terms of our resolution, we have given the Moslem minority protection by the reservation of seats on the basis of their population or upon their voting strength whichever is more favourable to them In strict logic we were bound to extend the same principle to the Hindu minorities in the two Provinces of Punjab and Bengal, but while we have extended the principle to the Hindus in Punjab we have not done so in Bengal

In all the provinces the reservations will, of course, apply only to the seats for contest in the general electorates those reserved for special classes and interests being open to all alike It is hoped that these latter may form a centre party and minimise the evil that must necessarily flow from the retention of communalism

Protection of the minorities

130 Though the Committee has given effect to its general resolution giving the Moslems proportional reservation of seats, it must not be understood that it came to this decision without carefully considering other proposals to safeguard the Moslem interests A committee of one Hindu and all the three of our Moslem colleagues was appointed to explore other possibilities This Committee held several sittings and after eliminating other

[1] § 101 ante

schemes fixed upon the two following as offering a practical solution —

(1) That the contest be limited to a panel of candidates to be approved by the Moslems

(2) That no election of a Moslem candidate be held good unless he secures a majority of the Moslem votes polled and at least 10 per cent of the Hindu votes polled

The second proposal was unanimously approved by the Committee which, however, broke up upon two of our Moslem colleagues insisting upon other concessions on the lines of the Delhi proposals to which we have already devoted a separate note.

On the whole we feel that if our Muslim brethren are to grow up it can only be by abandoning the chimera of communalism which will soon atrophy their *mental* vision and paralyse their national development

IV.

The Depressed Classes

131 The depressed classes belong to the lowest rung of the Hindu social ladder and number over forty four millions or about 16 per cent of the total population of British India Treated as helots and subjected to every conceivable mark of humiliation by the upper classes, these unfortunate people have remained the submerged tenth of the population Many of them have found refuge in conversions to other faiths but the bulk of them remain loyal to their ancestral faith, pursue the lowly calling of their forbears and were till recently content to lead their secluded and degraded lives—contented because they were told that their present condition was but the logical sequence of their sins in the past lives Reconciled to the irredeemable *Karma*, the Pariah became a byword for the outcast, but an outcast had still some self respect, which was denied to the Pariah who was every moment of his life subjected to growing persecution and social ostracism Though technically a Hindu, he was denied entry even into the precincts of a Hindu temple, though in reality a citizen he could not enter the public school or draw water from a public well or even walk on a public highway Even his shadow polluted the Brahmin upon whose appearance he was to lie in the bush or hide himself behind a tree Despised and downtrodden, the Pariah eked out his little life by engaging in servile and inoffensive pursuits When the Great War broke out many of them entered the Labour Corps, a [illegible] useful service Coming into closer contact with [illegible]

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Their position

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began to demand at least those elementary rights which even the abjectest of mortals might claim. Resisted in his uplift the Adi Dravida began to show a capacity for organisation and encouraged by the rising tide of the non-Brahmin movement and its triumph against Brahmanism the Pariah too attained a class *consciousness of his own, and he has since succeeded in mar*shalling an army of sympathisers and co-workers even from amongst the caste Hindus so that when we visited the Provinces we found ourselves in the presence of several deputations of the depressed classes who demanded their due participation in the government of the country which was strongly supported by their erstwhile oppressors. These classes were however not so well organised when Mr Montagu visited India and he dismissed them with only a casual reference in his Report.[1] They were easily persuaded to join the general boycott which awaited the arrival of the Franchise Committee presided over by Lord Southborough.

Communal Electorates

132. In this connection it must be borne in mind that communal electorates though condemned in the Montagu Report and subsequently both by the Central and several Provincial Governments "as foreign to the spirit of responsible government" were accepted by the Southborough Committee who had no alternative but to accept the joint demand of the Hindus and Mahomedans in pursuance of their Lucknow Pact. The pact made no reference to the Depressed Classes and as they were then neither sufficiently vocal nor organized their representation was limited to nomination which has since been condemned by their deputations which appeared before us and their representative on our Committee. But their representation by nomination was the only method recommended by the Joint Committee who said that "the Government of India should as it advises be instructed to give such classes a larger share of representation by nomination regard being had to the numbers of Depressed Classes in each province and after consultation with the local Governments. This representation should if necessary be in addition to but not in diminution of the general electorates."

Reference to the Southborough Committee

133. Following the recommendation the Southborough Committee wrote:—

In assigning the number of seats in each Council to which non-official representatives may be appointed by nomination we have been guided by the existence of the important claims or interests which could not be expected to obtain representation by any practicable system of election. Thus we have been driven to the expedient of nomination for the representation of the Depressed Classes because in no case did we find it possible to provide an electorate on

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[1] § 155

[2] See note on cl. (7) Government of India Act (Official Ed.) p. 15

any satisfactory system of franchise We have indicated in each province the special interests which we consider should retain such representation "(¹)

134 Their actual representation in the various legislative bodies is then and under our recommendation would be, as follows —

	At present No	*As recommended by us*
Council of State	Nil	Nil
Assembly	1	12
Provincial Councils		
Madras	10	14
Bombay	2	8
Bengal	1	8
United Provinces	1	10
Bihar and Orissa	2	6
Punjab	Nil	6
Central Provinces and Berar	4	8
Assam	Nil	9
Burma	Nil	—

135 We feel impressed by the view taken by the spokesmen of the Depressed Classes that both their number and the method of their representation are inadequate and unsatisfactory Their deputations condemned with one voice the selection of their representatives by official nominations The officials have on the other hand shown that in most cases no other alternative is feasible We have recommended the substitution of election—direct or even indirect—for the present system of nomination wherever possible We could not do more as we are not sure that a uniform method of election can be substituted *per saltum*. The Depressed Classes are found unevenly scattered throughout the country They are to be found in every village where they are employed to perform menial service It is true that they live apart but still it may not be possible to form compact [illegible] in so many geographical areas and even if [illegible] supervene to make them either [illegible] have therefore decided to leave [illegible] the method of election or where this is not possible selection to each local Government

136 As we are deciding upon a mere reservation of seats in joint electorates we hope that it might be possible for them to be returned by election in larger numbers than would have been possible under a scheme of separate electorates

137 Our colleague, Rao Bahadur M C Rajah has however, convinced the majority of our Committee that an exception Re[illegible]rvation of seats

(¹) They included in that class also Labour until "under trial conditions seem likely to give rise to Labour problems"

should be made in the case of Madras where with the abject condition of his community they would not be safe in a joint electorate Some of us have with the greatest hesitation yielded to his pressure though we are far from convinced that his reasons justify the exception

138 It will be remembered that communal electorates have been condemned by all statesmen and writers and they find a singular departure from every known constitution of civilised countries in the world The Southborough Committee reluctantly accepted them in the case of the Moslems observing that whatever the defects of the compromise it was not one which they ought to reopen That eventually weighed with the House of Commons when Mr Montagu assured the House that it was only a temporary makeshift The Reforms Committee, 1924 went into the question and while they could not then recommend their abolition they cautioned against their extension In the case of the Depressed Classes such extension would we think stand in the way of their own social uplift which would be accelerated by the Hindus being made to feel their dependence upon their votes The zeal of the canvasser would soon obliterate the barrier of caste It is doing so in the case of the higher castes It cannot do otherwise in their case But there are other reasons which we have categorised elsewhere

Extent of their representation 139 The next question to which we addressed ourselves was the one relating to the extent of their representation We think that our proposal gives the Depressed Classes a sufficiently satisfactory representation

It is not exactly in proportion to their numerical strength , but a community cannot with the same breath proclaim its backwardness and then claim equality Political power goes with the development of the political sense Its acquisition is the result of numerous causes—tradition habit association education and experience Government is an art and can only be mastered *ambulando* It cannot be copied from the books A people ruled to a static civilisation which is secondary to religious beliefs can never advance beyond the reach of their religion and their advance must involve their recognition that politics must be divorced from religion But in India where many people still lie under the thraldom of their religion a political cohesion and a political advance are alike difficult The Depressed Classes are already trying to shake themselves free from the shackles of the religion which consigns them to preordained perpetual slavery

But they have a long way
the level of other Hindus
l experience When that
reserving them seats for
n open contest The non
example we have there
limited their reservation for a period of ten years

CHAPTER III.

THE REVIEW OF EDUCATION AND LOCAL BODIES

I.

THE GROWTH OF EDUCATION.

140 Under § 84A of the Government of India Act as amended by the Reforms Act of 1919, the Statutory Commission are charged with the duty (*inter alia*) of inquiring into the growth of education in British India. This inquiry was obviously to be made with a view to ascertain how far the people of India had been educated not only in general knowledge but how far they had acquired the the purpose of shouldering Taken in its large sense training and development of the intellectual and moral faculties The development of neither directly results in the development of the political sense which is the fulcrum for political progress It is probably towards this purpose that the section connotes an inquiry not only into the growth of education, but also into the development of representative institutions in British India, since the two taken together would be an assured augury for the future maintenance and growth of the responsible government of which a beginning was to be made in pursuance of the Act

Meaning of "Education."

141 In dealing with the subject of education we shall therefore keep these two points in view That this was the intention of the Statutory Commission is clear from the reference to it which occurs in the initial chapter of an auxiliary committee presided over by Sir Phillip Hartog who in setting out their own function say —" The Commission therefore regard themselves as primarily concerned with education and its organisation in British India in relation to political and constitutional conditions and potentialities of progress In this sense therefore, that the Commission desires the reference to the Auxiliary Committee on the growth of education to be interpreted "

Limits of the Inquiry.

142 The Auxiliary Committee to which reference is made was the special committee presided over by Sir Phillip Hartog, appointed on the 31st May 1928 before the formation of our own Committee, appointed by the Chairman of the Statutory Commission to report to it the result of an enquiry to be made on its behalf It was consequently designated its " Auxiliary Committee " This Committee has submitted its report on which we were privileged to examine its members Our own report on this head is *based* upon the conjoint consideration of their printed report and their oral examination

Committee's view on "Growth"

143 In their preliminary observations the committee say that while they have kept in mind the fact that they are asked to deal with the "growth" of education the term "growth" implies something more than past history, it implies development, growth in the past provides the basis of a forecast of the potentialities of progress in the future In analysing the facts and figures submitted to us we have therefore tried to see to what causes the acceleration or retardation of growth in the immediate past has been due how these causes are likely to operate in the immediate future, and how the healthy growth of education may be promoted by the removal of defects

Progress made

144 A perusal of this review convinces us that the growth of education taken in general has been decisively encouraging since the Reforms and that its further growth has been retarded not on account of any policy on the part of ministers to whom the subject of education was for the first time entrusted under the diarchical form of provincial government created under the Reforms Act but owing to the lack of funds generally which overstrained the resources of all provinces as a result of the War and the insufficient control over the provincial budgets entrusted to the ministers Nevertheless the following table drawn from the Review is sufficiently eloquent of the striking contrast in the momentum given to mass education since it became the subject of popular control

Percentage of Population of School going Age who are receiving Primary Instruction by Provinces

Province and Population (in millions)	Boys			Girls		
	1917	1922	1927 (1)	1917	1922	1927 (2)
Madras (42 3)	39 2	42 [illegible]	59 0	10 1	11 8	17 5
Bombay (19 3)	37 2	45 1	49 2	9 7	12 9	16 8
Bengal (46 6)	39 8	37 2	45 1	9 2	10 6	13 2
United Provinces (45 3)	19 [illegible]	23 1	30 5	1 9	3 0	3 9
Punjab (20 6)	20 5	23 9	44 7	2 4	4 5	6 8
Burma (13 2)	28 2	20 9	23 0	14 0	12 3	18 4
Bihar and Orissa (34 0)	25 7	26 3	37 3	4 1	4 3	4 8
Central Provinces (13 9)	29 1	27 3	30 7	3 7	3 8	4 3
Assam (7 0)	36 5	29 5	36 4	6 0	5 1	6 8
British India (247 3)	30 3	31 5	4[illegible] 1	6 7	7 7	10 4

It is pointed out in the earlier page of the Review that 14 per cent of the total population may be taken as the average population of children of the school going age of which 7 7 percentage of boys and 6 7 percentage of girls are stated to have been at school in 1927 The total expenditure on primary schools in British India stood only at 96 crores whereas in 1927 it rose

to 6 95 crores that is it rose sevenfold The Review adds —" It will be seen that the expenditure has increased by six crores since 1892, and that two thirds of that increase has been made during the last ten years The fact that large additional sums have been demanded by ministers and that they have been voted gladly by the new Legislative Councils is in itself encouraging These figures suggest that there is a considerable and growing demand that real effort has been made to meet the demand by the improvement of existing schools and by the provisions of new schools The Legislative Councils have shown clearly and effectively that they are in full sympathy with the movement "[1]

145 This is encouraging but there is another side to the picture *Of 100 pupils who attended class I in 1922 23 only* 18 were reading in class IV in 1925 26 In other words although there is a fair start there is a noticeable falling off of pupils in the higher classes with the result that the effect on literacy *judged by the initial entry of children in the schools* becomes partially illusory This serious setback is ascribed to two causes —withdrawals and non promotion which in the result implies so much waste of public money It is difficult to ascertain with any approach to accuracy what *percentage of the school* going children ultimately add to the literate population of the country but we presume that it must have resulted in a marked increase At the same time literacy must by no means be taken as the only task of education As the education committee observe —' There are large numbers of persons in the country who though not classified in the census as literate not only manage th [illegible] d those of the [illegible] but are fu [illegible] Inherited [illegible] experience [illegible] and many [illegible] their households with wisdom [illegible] **Limits of Expansion**

146 This is the right view and will serve as a corrective to those who regard literacy as an essential equipment for the assumption of political responsibility Education in the general sense of literacy and acquisition of general knowledge is scarcely a measure of political capacity which can only be acquired by practice As Lord Bryce observes —

" The difficulties of education among backward races such as the Philipinos or the African Bantu tribes or even among the ignorant sections of civilized peoples such as the Russian peasantry or the Chinese or the Indian ryots, will not desirable as it is necessarily qualify them to work a democratic government and may even make it more difficult to work in its earlier stages Attainment in learning

1 Auxiliary Committee's Report, p 44 2 Ib p 45

Lord Bryce on the value of Education

and science do little to make men wise in politics Some eminent scientific men have been in this respect no wiser than their undergraduate pupils There have been countries in which the chiefs of public services and the professors in Universities were prominent in the advocacy of policies which proved disastrous " " Knowledge is one only among the things which go to the making of a good citizen Public spirit and honesty are even more needful "[1]

The true place of education lies in that it opens a wider door way to knowledge but knowledge might be acquired by experience and without practical experience there can be no advance in political institutions Politics is not a science but an art and can only be learnt by practice

147 Holding this view, we consider that the question of the growth of education amongst the masses how much soever necessary and desirable for their economic growth must not be regarded as a *conditio sine qua non* to political development

All the same even judged by the narrower test of literacy, we may fairly assume that the reforms have given a definite and encouraging impetus to the banishment of illiteracy from the land and that given more money and a more concerted policy the question of education need not make us apprehensive that the further development of the political sense would suffer from any lack of stimulus to promote literacy in the land

We shall therefore rest content by adverting no more to the subject beyond recording our opinion that the Reforms have given a definite stimulus to the growth of education in British India, that judging from the figures the progress has been rapid, but by no means as rapid as one would have desired and that its future would be assured if the ministers are better placed as to funds and a concerted policy is agreed upon and prosecuted with the sole purpose of imparting mass education with special reference to the communities and classes who lag behind in the race, and who should receive special encouragement proportionately to their illiteracy and backwardness in the past

Communalism in Education

148 It would not become us to make a wider digression by suggesting how and to what extent this is possible The Education Committee have dealt with the question fully, and in their Review extending to 400 pages they have suggested various means for the promotion of literacy While we are in general agreement with many of their suggestions we feel constrained to have to record as our opinion that while every encouragement and assistance should be given to those who are backward we should strongly deprecate the introduction of communalism in the schools by limiting the number of pupils of more advanced classes or communities to make room for those who belong to the back

[1] Modern Democracies, pp 89, 89

ward communities. For we feel that if there is the slightest suggestion of communal partiality in the composition of public schools maintained out of public funds, it would leave an unhealthy trail which would poison the minds of those who, in their most impressionable years, are brought face to face with a human frailty, the effect of which would not be confined to the four walls of the classrooms.

149 While on the subject of mass education, we recall the insistence made in several quarters that such education should at least for a generation be made a national concern and not be left, as it has been left in places, to the spasmodic efforts of local bodies whose resources are limited, and who are reluctant to add to the local rates for education which the masses have not yet learned to prize.

Line of future advance.

150 It is suggested that all mass education should for the present be financed out of a general education cess, and that a Board of Education might usefully be set up to co-ordinate local effort, lend it a guiding hand by placing at its disposal the result of expert knowledge, and generally co-ordinate the work of educationalists in the several provinces. If the call upon our space were not limited we would fain have expatiated upon a subject so vital to the future growth of a nation. But all we can do at present is to draw the attention of those to whom may be entrusted the guidance of the future policy of educational reform to a view which has much to commend itself. The example of the American effort in the Phillipines is cited as one to emulate in this connection.

151 But whatever may be the manifold difficulties of the problem they have to be combated in favour of intensive education of the proletariat of the future. Not only mass education, but higher education would seem to call for an enlightened policy. Some of us who have maintained life-long associations with the centres of higher learning have received with mixed delight the recent multiplication of universities. While there is no higher or nobler call for the display of public munificence, we doubt whether the duplication of identical general teaching in the several universities might not be more profitably supplemented by specialisation of the universities in a few selected subjects of study.

Suggestions for greater co-ordination.

152 If the universities can be persuaded to cry a halt to the outpouring of graduates who are annually thrown mercilessly upon the world bewildered and unable to earn even a starvation wage and if their minds are diverted to the more profitable avenues for employment still open to young men who have specialised in the numerous subjects the knowledge of which is conducive to the comfort of men the universities will have performed the dual function of not only imparting learning but also making its application profitable to their *alumni*. It is a trite saying that the mere possession of a degree does not make

its possessor learned and even learned men have got to live and compete in the daily growing fiercer battle of life It would we think be a course of wisdom if the several universities now represented on the Universities Board bent their minds to the solution of the acute problem of middle class unemployment Last year some of us were astounded to see deposited in a case in one of the courts of the Industrial Exhibition held in connection with the Indian National Congress at Calcutta over a thousand applications in response to an advertisement for a post carrying a monthly salary of Rs 40 (three pounds) Not a few amongst these numerous applicants were Masters of Art and possessors of honours degrees A large horde of unemployed graduates is a danger to the peace of the State It is meanwhile a lamentable waste of effort Lives that might have been more profitably employed in the production of wealth time that might have been spent in the preparation for a useful vocation are squandered in the aimless memorising of historical dates or Algebraic formulae which pass out of the memory as soon as the young graduates pass out of the senate hall after receiving their parchments We have alluded to this subject because we do find the expert committee no doubt from the combined effect of their limited reference and the lack of sufficient evidence not forthcoming owing to the stringency of the boycott equally extended to it have not devoted to it the space which the importance of the subject called for

II

The Development of Representative Institutions

Awakening of the masses

153 Our task in reporting on the development of Representative Institutions in British India has been considerably lightened by the carefully prepared reports of the Provincial Governments on the subject We cannot say that we were fortunate in obtaining much detailed evidence to supplement the reports, but such evidence as was forthcoming has convinced us that there has been notable development and improvement in the added interest taken in the meetings of the local bodies and the administration of their funds From Madras however it is reported that a correct estimate of the success of local self government cannot be formed owing to two factors namely the complete revision of the Acts dealing with them and the increase of prices Nevertheless the Government were able to say that "there has certainly been an awakening of the civic consciousness of the people as a result of the Reforms and the policy of de officialization but it is too early yet to estimate results in the way of civic achievement"[1] To this is however added the following complaint which may be taken to be of a more general application "There has been" it is said an unwillingness shown which is not un

[1] Report, pp 6—34

natural to elected bodies who have had new powers given them to face the unpopularity of imposing new taxes and even to collect sufficiently strictly most of which they imposed or to enforce the law in dealing with appeals for remissions but with better financial conditions, there is every hope that the policy of giving wider powers to local bodies will in the future be justified "[1]

154 There is a reference to the non co operation movement which took the form of capturing all the local bodies as far as possible by the Swarajists, with the result that those became the forums for political debates which became deflected from their normal relevance to parochial questions But in Madras it appears that the pendulum swung back to the normal, though in some other provinces politics still remain dominant in the municipalities and to a lesser degree in the rural bodies For example Bombay reports that the non-co operation movement "has had a noticeable effect on the relations between Government and the Reformed Local Bodies During the first three years after the introduction of the reforms a fairly large number of the bigger municipalities such as Surat and Ahmedabad were frankly defiant of any Government interference and endeavoured to carry on their affairs without any Government assistance in the shape of grants-in aid for education or for other objects Whilst this phase lasted the relations of Government with these bodies were naturally strained and in one or two cases municipalities were suspended Since 1924 there has been a marked change No Local Body now objects to taking Government grants-in aid The influx of politics into the arena of local bodies was probably most marked in the Calcutta Corporation the administration of which has been after a short interruption carried on from a purely political instead of a civic point of view "[2] The affairs of this body have often been the subject of serious comment Its finances are reported to be unsatisfactory its closing balances have been greatly depleted and its borrowing capacity reduced in spite of the warnings given by its responsible executive officers "[4] **Effect of non-co-operation.**

155 Fortunately conditions in the Mofussil local bodies appear to have been better and practically nowhere did the political situation react on the details of municipal administration "[5] Similarly, in the District and Local Boards whatever their political sympathies most of the chairman and vice chairman did their best to discharge the responsibilities imposed on them even in some cases at the sacrifice of their private interests Their difficulties were financial not political and were not to be attributed in any way to the reformed constitution " The oral evidence such as it was entirely supports this view In the United Provinces both the local bodies appear to have shown some improvement Up to 1924 municipal finances showed a **Financial stringency**

[1] Report 31 32 [2] Ib pp 114 110 [3] Ib p 101 [4] Ib p 10 [5] Ib p 103

deficit but they have worked on the whole satisfactorily when they were not short of funds The elections of 1925 are reported to have turned very largely on personal and communal issues the Swarajists who lost ground everywhere being replaced by candidates with strong communal proclivities [1] The note comments adversely on the art of administration on the confusion of accounts but the Boards there were non officialized only in 1922 and this fact is mentioned as a mitigating factor The evil of communalism in the Punjab where it is said that with the introduction of communal elections in these bodies by a Moslem Minister who could not resist the claim of his co religionist to a larger representation on them they immediately intensified the communal tension which reacted on the efficiency of local bodies owing both to the waste of time involved in communal disputes at meetings and the tendency to decide important questions on communal rather than on administrative grounds [2] The Report points out that the nominal abolition of communal electorates by re grouping the wards so as to ensure the same result has tended to aggravate the same evils

Communalism in the Local Bodies

156 We have already adverted to the influence of communalism which acts as a canker worm in the body politic reducing it to an inert mass and precipitating its disorganisation and dissolution The testimony of the Punjab is a warning to those who endeavour to extend that principle to every branch of Government and even to the services and the school The influence of caste and communal rivalry is reported to be responsible for serious maladministration in the majority of the local bodies in Bihar [3] though the obsession of politics was equally another contributory case In this Province the re tightening of official control would seem to be well justified The local bodies are reported to have done very well in the Central Provinces where the wide extension of the franchise stimulated interest in the elections with the result that in the General Elections of 1922 as much as 80 per cent of the voters went to the poll in several case though the majority of them belonged to the non co operation camp But in the following election of 1925 personal or communal ties took precedence over politics On the whole the report from this Province holds a hope of improved administration in the future [4] A similar sympathetic note is struck in Assam where the following passage concludes this subject "There are already indications that local bodies are beginning to realise that responsibility goes with power and that it is for the Boards now to work out their own salvation [5]

157 There is nothing to note about Burma where though a new District Council Act was passed in 1921 no financial arrangements were stated to have been made till the date of the

[1] Report p 1__ [2] Ib p 248 [3] Ib pp 431 43_ 451 [4] Ib p 461 [5] Ib p 40_

Report while a new Municipal Act was then stated to be pending in the Legislative Council Burma must then be regarded as an exception It received the reforms some years later than the rest of India and it is not surprising that it had to wait for the reorganisation of its local bodies

158 Both from the official reports and non official evidence given we feel satisfied that there has been a sufficient growth of responsibility in the local self governments but that greater progress was retarded by the facts of inexperience political and communal obsession but that while the former was disappearing communalism is still a live force in detracting from good and efficient local self government Limits on further growth

CHAPTER IV

THE SECRETARY OF STATE IN COUNCIL

I

THE SECRETARY OF STATE

Historical retrospect

159 The position of both the Secretary of State for India and his Council in relation to the Government of India before the Reforms may be traced back to that of the Board of Directors of the East India Company from whom the Crown took over the government but the old system continues to survive in the appointment of the Secretary of State whose functions corresponds to those of the President of the Board of Directors while his Council has inherited some of the functions and tradition of the Board of Directors As such "he was assigned the power to superintend direct and control" the government of India As the Crewe Committee observed, ' The substitution of administrative responsibility on the part of the Government for the superintendence it had formerly exercised caused a redistribution of functions in which the lines of inheritance became to some extent obscured but the persistence *of the dual principle can still be traced to the corporate activities* of the Secretary of State in Council [1]

160 After the memorable declaration of August 1917 when a new policy was decided upon a re examination of the power of the Secretary of State and his council became necessary and it was so suggested in the Montague Report in which the authors recommended that the Parliament must be prepared to forego the exercise of its own power of control in respect of all matters in which responsibility is entrusted to representative bodies in India and " this process must continue *pari passu* with the development of responsible government in the provinces and eventually in the Government of India ' [2] The Crewe Committee were appointed to recommend changes suited to the operation of the new policy—that Committee issued its report on the 21st June 1919 six months before the Reforms Act was enacted and its effect upon the newly created Legislatures seen But nevertheless it is useful to see to what extent that Committee advised changes in the powers of the Secretary of State and his Council

Crewe Committee's recommendations

161 As regards the power of superintendence direction and control vested in the Secretary of State the Committee recommended " that where the Government of India find themselves in agreement with a conclusion of the Legislative Assembly their

1 Crewe Report § 9 2 Report, § 291

joint decision should ordinarily prevail "[1] They then proceeded to add that in order " to give proper emphasis to the legislative authority of the Assembly, we recommend that whenever legislation has the support of a majority of the non official members of the Legislative Assembly assent should be refused only in cases in which the Secretary of State feels that his responsibility to Parliament for the peace order and good government of India, or paramount considerations of Imperial policy require him to secure reconsideration of the matter at issue by the Legislative Assembly [2] In matters other than legislation the Committee recommended " that a joint decision of the Government of India and a majority of the non official members of the Assembly, reached by discussion of a resolution should be given the same degree of authority as similar decisions on legislative proposals "[3] Similar change in the procedure was recommended in the matter of the exercise of delegation powers in " that previous sanction to decisions taken in India should be required in fewer cases than in the past, and that in some matters it will suffice in future if the Secretary of State asserts his control by means of a veto—if necessary "[4] In this respect the Committee recommended that in all cases in which the previous sanction of the Secretary of State was essential only a previous consultation with him should suffice and that the Secretary of State should from time to time revise the lists of subjects on which he requires such previous consultation The position before the Reforms was that while Britain nominally directed the Indian policy through the Secretary of State it could exercise no real control, as the Secretary s salary was not even borne on the estimates The Crewe Committee recommended that it should be so borne, and it was but his Council still remained outside the control of Parliament with the result that frequent constitutional dead locks still remained possible only averted as Lord Crewe found by the Council avoiding a conflict with the Ministry

162 The basic principle of all the recommendations was to modify the direction of Indian policy by Britain by insuring that in all matters whether legislative or administrative the view of [illegible] official majority of the Assembly should receive weight [illegible] of the question if concu[illegible] Accordingly Sec tion 19A [illegible] the Secretary of State in Council to [illegible] e exercise of the powers of superintendence direction and control [illegible] in such manner as may appear necessary to or expedient in order to give effect to the purpose of the Goverment of India Act 1919 " The Committee recommended the abolition of the India Council and the constitution of an Advisory Committee in its place of which not less than one third of the members should [illegible]

No recom mendatio[illegible] carried ou[illegible]

1 Crewe Report § 13   2 Ib 201   3 Ib § 13   4 Ib § 1[illegible]

be selected out of a panel elected by the non official members of the Assembly[1] They however added that "As the focus of the Government of India's responsibility shifted from the Secretary of State to the Legislative Assembly the need for the corporate control of the Secretary of State in Council would lapse" The Committee thought that in the transitional period "it would be advantageous if occasion were now and then taken to appoint an Indian to one of the posts which stand as intermedia[r]y between the Secretary of State and the Heads of Departments"[3] The late Mr B N Basu then a member of the India Council and a member of the Crewe Committee wrote a minute in which while approving of the recommendation of the committee for abolition of the India Council he opposed the creation of an Advisory Committee He was of opinion that in order to give Indians a responsible part in the higher control of the India Office it should be definitely laid down that there should always be an additional Indian permanent Under Secretary of State ordinarily he should not be an Indian Official[4]

163 It is needless to add that so far as we are aware none of these recommendations were eventually carried out The Secretary of State never relaxed his control as provided in Section 19A of the Act no Indian Under Secretary was ever appointed It is true that the late Lord Sinha held this office for a short while but his appointment was made to enable him to pilot the Reforms Bill through the House of Lords and not out of any desire to give him control of the India Office The experience of those of us who have served in the Legislative Assembly from its very inception has been that the generous though cautious policy underlying the recommendations of the Crewe Committee have so far as we are aware remained a dead letter and that in spite of the insistent and repeated demand of the Assembly that the Secretary of State should relax his control on the Government of India by *framing rules* under the Act no rules have been framed and there was no evidence of any relaxation of his control The Assembly has thus had some justification in denouncing the narrow and niggardly spirit in which the Act was being interpreted in practice The Act had admittedly the short life of ten years during which it contained sufficient materials for self expansion But none of its provisions were called into requisition though the Assembly had been clamouring almost *from the day of its* inception for the fulfilment of the pledges made by the declaration of 1917 and the recommendations of constituted authorities thereupon The reasons for this retrogression from the spirit of the Reforms has been made abundantly clear to us from the examination of responsible officials of the India Office and its civil and military experts As we have been informed in private

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[1] *Ib* § 15 [2] *Ib* § 16 [3] *Ib* § 15 [4] *Ib* p 6-35 § 17

by those who have come into close contact with them, the entire atmosphere of the India Office is anti Indian But whether it is so or not we are strongly of the opinion that there can be no hope for the success of any reforms in India so long as the centre of gravity is not materially shifted from Whitehall to India

164 And we therefore, think that the only course our Committee could take is that recommended by it, namely — *Our recommendations*

(1) that the revenues of India must no longer vest in the Secretary of State, but should vest in the Governor General of India,

(2) that the powers of the Secretary of State be limited within the sphere of the reserved department and that they should be defined,

(3) that the India Council be abolished,

(4) that so long as there is any subject held as reserved in the Government of India, the Secretary of State should be assisted by two non official Indian Under Secretaries drawn from public life of the country and that a place should be found for one in Parliament,

(5) that India should indeed be directly represented in Parliament if the latter is still further to retain any measure of control over the affairs of India

II

The India Council

165 The Council of India is a relic of the old Court of Directors of the East India Company and came into being on the transfer of the territorial possessions in India to the Crown by the enactment of the Government of India Act of 1858 which provided for the appointment of fifteen members, eight appointed by the Crown and seven elected in the first instance by the Court of Directors and subsequently by the Council itself By the Act of 1869 their appointment was entrusted to the Secretary of State By an Act of 1889 their number was reduced to ten In 1907 two Indians were for the first time appointed to the Council Another Indian was appointed later on with the result that seven Europeans and three Indians now form the Council We are informed that some important rules of business as framed in 1859 remain in force up to date with the result that though the constitution of the Indian Government has undergone considerable modification the Council rules of business remain But this is of little moment since the Council has little power except where its vote is statutorily required and even in those cases its consent is ordinarily given without much discussion Its meetings are said to last only a few seconds—not minutes *Origin of the India Council*

Montagu Report on the India Council

166 The Montagu Report does not deal with the India Council as such In Chapter IX a Section deals with the India Office[1] in the course of which recommendations are made for modifications in the Secretary of State's power of super vision direction and control to the extent the subjects are transferred to the Ministers As our proposals involve the transfer of all subjects in the provinces and the transfer of most in the Central Government it follows that the Secretary of State's control will to that extent abate, and as our pro posal makes the Government of India financially independent of the Secretary of State there is no longer any necessity for the continuance of the India Council This is admitted in a weighty memorandum in which the following sentences occur ' so long as the Government of India and local Governments were not dependent on the co operation of a legislature predominantly elective there were obvious reasons why the control of the Secretary of State over the one and the control of the Government of India over the other should be fully maintained because in such circum stances both the Government of India and the local Govern ments alike were simply the agents to the will of the British electorate as represented in Parliament But when with the Montagu Chelmsford Report the local Governments and the Gov ernment of India became in varying degrees partially amenable to elective legislatures in India it followed inevitably that the control of the Government of India in the case of the one, and that of the Secretary of State and Parliament in the case of the other should be modified in so far as was necessary to allow the new principle of amenability to Indian legislature free play

Its present powers

167 The position of the India Council is at present stated to be as follows The Secretary of State is statutorily given the amplest power of supervision direction and control over the Government of India This control he may exercise inde pendently of his Council or with the concurrence of the majo rity of his Council in the few cases mentioned in Section 21 Section 28 (1), Section 29 (1) and Section 96 (E) of the Gov ernment of India Act Where such concurrence is not legally re quired, the Secretary of State even though acting as Secretary of State in Council has the authority to over rule his Council (S 9 (1)) Under Section 6 (1) the powers of the Secretary of State in Council must be exercised at meetings of the Council But we were told that in practice the Secretary of State decides what business (other than business to which the con currence of a majority is required) will come before the Council As the only questions on which the concurrence of the Council is a pre requisite are those affecting the revenues of India and contracts it follows that the Council cannot exercise any decisive voice in the domain of general adminis

1 Report, §§ 290—295

tration The Council is a purely nominated body, and in the exercise of its function it is responsible to nobody, neither to the British Parliament nor to the Indian Legislature "It is obvious, and may be readily admitted, that a system under which a nominated body like the Council of India is armed with statutory powers which it may exercise in a way that may conflict with the wishes of His Majesty's Government is something of a constitutional anomaly" The Crewe Committee which examined this point wrote "The Secretary of State as distinct from the Secretary of State in Council, is generally responsible as a Minister for the co ordination of Indian and Imperial policy The Council are by law in a position to obstruct his policy or indeed the policy of His Majesty's Government by interposing their financial veto if Indian revenues are affected But in practice they have acknowledged the supremacy of the Indian Executive by accepting proposals communicated to them as decisions of the Ministry in so far as those proposals raise issues on which they are legally competent to decide"

168 As to this it is said that the arrangement has proved workable in practice because both parties to it have exercised reasonable forbearance But as against this it has been stated that the forbearance exercised by the Council has been in the direction stated by Lord Crewe's Committee We were told that the meetings of the Council are purely formal and its business is usually disposed of in a few seconds (not even a minute)

Council's work in Committees

169 It is true that there are several Committees but we were told that since the majority of members in each Committee are Europeans and neither the Secretary of State nor the Under Secretary is present and the decisions merely record that a matter was decided by a majority it follows that the Indian point of view can never be pressed or adequately defended

170 It is admitted on all hands that the constitution of the Indian Council is an anomaly and its function only limited to safeguarding the revenues of India Lord Crewe's Committee thought and the evidence before us proves it that it is not able even to do this in view of that very anomaly and the forces against which it may have to contend even if it dared to resist them Apart however from its past record we have already stated that as we have recommended the vesting of the revenues of India in the Government of India there is no longer any necessity to retain a body in England whose primary function was to conserve those revenues Indeed we would commend this course in view of the present defects of the system Even apart from the Council the India Office check meticulous though redundant as it is would have to be greatly relaxed except in the reserved field On this point we have in mind the evidence of an expert

Montagu Report on the India Council

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[1] Report, §§ 290—295

174. There remain que[illegible] H[illegible] Majesty's Government and the Government of Ind[illegible] a[illegible] variance. It is suggested that such questions should be left to the dec[illegible]ion of an arbitral body to be set up by the statute. The suggestion is well worthy of further examination but we have not been able to examine it in our committee with the sufficiency of detail to enable us to embody it as one of our recommendations. But we are quite alive to the seriousness of the issue raised, and its very seriousness has made us pause before proceeding to a decision for lack of fuller details as to how such questions are determined if and when they arise as undoubtedly they must have arisen in the past, between His Majesty's Government and the other Dominions. We are aware of individual cases so referred to and decided, but we are not aware of any constitution in which a standing body is brought into being for the adjudication of all future disputes.

175. Finally, then, we have no hesitation in recommending the abolition of the India Council as an anachronism and as one which has outlived its usefulness, whatever usefulness it may have had in the past. If we had felt the necessity of continuing it we would have recommended its reconstruction. But with the financial and general control of the Secretary of State now restricted to the much narrower field of defence and political relations, there is no longer any necessity for a Council similar to that which remains attached to the India Office. At the same time we recognise that the office of the Secretary of State may at times be held, indeed is usually held by one who has not had first hand knowledge of Indian conditions, and even if he had,

he would still require someone to refresh his memory and present to him the Indian viewpoint. Consequently, we recommend that means should be found to appoint two Indian Under Secretaries one of whom might sit in the Chamber in which he might find a place without having to face the vortex of a contested election. And so long as the Indian constitution falls short of that accorded to the Dominions the committee would commend its resolution for the representation of India in the British Parliament. The *proposal though novel is not unsupported by the precedent* of France and Portugal to the Parliaments of which representatives of their Indian possessions are elected alongside of those who represent the home constituencies.

III

The High Commissioner's Powers

176 We have had the advantage of examining the High Commissioner for India and we felt impressed by several points raised by him upon which the other evidence taken by us had left us in doubt. We would recommend that his agency should in future be employed for the recruitment of British officials in all the transferred field and generally speaking his duties should henceforth approximate more closely to those discharged by the Colonial High Commissioners. In regard to Indian loans his agency would both ensure economy and expeditiousness. A high authority on Indian finance speaking of the present system regards it as not only unauthorised but also both cumbrous and dilatory and not at all times conducive to the interest of India.

His power to raise loans

177 Then in the field of recruitment from England there is no reason why the services of the High Commissioner should not be more largely availed of: that all recruitment should not as a rule be through his agency. As we visualise the future of the British services in India we think that if India is left free to herself she will draw largely upon England for her superior Police Service because Indians appreciate the superior organising capacity and power of maintaining discipline in that service and *their co operation may in the initial stages be necessary* for political reasons as well. As regards the recruitment of officers for the discharge of the duties now entrusted to the Civil Service India is well able to man her own Judicial Service but outside that service it may still be necessary to employ wholetime British officers whose qualifying test should include their sympathy with the new constitution. The old Service with its old tradition has ceased to be of any real value to India as these men would have to work as partners and not as masters of the ministers and their recruitment must be entrusted to an agency amenable to the Indian Parliament. It has been said that it would be difficult to find men to serve India under her altered constitution and that unless the conditions of recruitment are those of the present Civil Service and the security offered that of the Secretary of

Power of recruitment

State, men of the right type would not be forthcoming to hazard their future We know that the High Commissioner who has been recruiting for some listed all India posts experiences no difficulty of the nature apprehended Of course, India will cease to possess the same glamour which it does to the young Englishmen to day but we hope that it would add to the good of both countries that the Civil Servant of the future should not regard his employment in the Indian Civil Service as more attractive than in the Home or Colonial Civil Service It may be that with the vision glorious of the Governorship of a province gone, and social amenities diminished, the Englishman may lack the incentive now offered to him But India's progress cannot be arrested nor her condition continue to remain adapted to any class of her servants who must be prepared to adapt them selves to their altered environment If this calls for a higher scale of pay India will not grudge it but what she does grudge is the recruitment of a band of men who will strive to perpetuate an obsolete system and it may be quite unconsciously under mine the new order with which they as a class never had any traditional sympathy

Other agency business

178 The other agency work which we recommend for transfer to the High Commissi n i is th payment of leave and pension allowances to the military officers The High Commissioner should be used as a *liaison* office n the sam way as the Dominior in respect of inter national of India should use him as a cu them This arrange ment will be conducive to some economy in the reduction of the India Office establishment and bring India more on a line with the other self governing dominions of His Majesty

IV

The Public Services

Risks re stated

179 Some members of the Indian Civil Service who have occupied some of the highest positions open to members of that Service have addressed us a memorandum on the main questions on the solution of which we are engaged They say " We accept the policy proclaimed in 1917 but we are anxious that the risks attendant on particular measures—risks which may we think manifest themselves with surprising swiftness and on a widespread scale—shou ated before such measures are taken" with deliberated moderatio a marked advance to those who are anxious to see a marked advan that the risks are very serious and the difficulties of retracing any mistaken step forward are very great"

180 The risks they refer to are inherent in the transfer of any subject in the Provinces or in the Government of India, for they truly observe "Following the decision taken in connection with the Lee Commission the transfer of a subject must mean the cessation of recruitment of any All India Service dealing with it This is only logical, ministers must choose and have control over their own agents" As for the continuance of the British Services they repeat what had been made very clear in the memorandum of the Indian Civil Service Association whose members have repeated by word of mouth what their leader has committed to writing that all the tradition of that service were bureaucratic The three distinguished authors of the Memorandum lay emphasis on the same characteristics of their Service in the following words In some instances provincial legislatures have manifested an attitude of hostility to the British Services, and probably in all cases transfer has brought about changes in policy and in the character and methods of administration with which the British Services with their *different traditions and ideas cannot be properly in sympathy* and with which they would in fact not to be associated" This is perfectly true the British Services have made no secret of their want of sympathy to the reforms and the choice lies between the reforms and the British Services That was the alternative presented to Mr Montagu and the British Parliament in 1919 That objection still remains and indeed it attains a greater strength with each step forward in the direction of responsibility As the Madras Government points out "Responsible self government if it implies anything implies that the province must be free to recruit its own servants as and where it likes There can be no imposing upon it a body of men recruited under regulations from sources and at rates of pay prescribed by some outside authority"[1] One thing is therefore clear, responsibility of India is incompatible with the continuance of the British Services recruited and maintained upon their present basis There can be no doubt that the members of the British Services have by tradition regarded themselves as members of a governing class They have for a century before the reforms ruled India as benevolent despots formulating their own policy if any, and putting it into execution

181 As Mr Montagu wrote "The changing times cannot, we know, be altogether agreeable to many men who have grown up in the older tradition which made them the protectors and governors of the people" But time and the Civil Service Memorandum have alike disproved Mr Montagu's optimism as to its adaptability to a now changed order of things "We regard it," he said "as a libel on the Indian Civil Service as a body to day that they have resisted or will resist the policy

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[1] Madras Government Memorandum, p 26

announced last August They have welcomed it because no one knew better than they how badly a declaration of policy was needed , and they will carry it out with determination just as they have always carried out the policy laid down for them "[1] But as is now only too apparent that while the British Services have no objection to a mere *declaration* of policy its *execution* , for have that Service and their on the subject made it abundantly clear that they were wholly out of sympathy with the transfer of power from the officials which is postulated in the Report ?

182 The recommendation of several Provincial Government in favour of provincial autonomy coupled with the recommendation that the agency employed should continue to include the All India Services recruited and protected by the Secretary of State is refuted as inconsistent, for the three signatories to the memorandum made no secret of the fact on the contrary emphasised it, that the reforms cannot be worked by British Services and so long as they continue in service to that extent they impair provincial autonomy This is [illegible] memorandum in which this conclusion is stated [illegible] that to men already appointed by the Secretary of State the protection of the Secretary of State would still [illegible] extend [illegible] and provincial autonomy to that extent impair[illegible] This aspect of the question was entirely lost sight of in the Montagu Report in which it was assumed now shown to be erroneously that the Civil Service would be a valuable ally of the reforms as if the victim who has to carry his own cross would be enamoured of his burden It need scarcely be added that the policy which the Civil Service carried out was largely their own That policy or to be more accurate its absence was euphemistically described as a benevolent despotism It was a rule by one race over another the rule of the conqueror and *vae victis* if the conquered resisted It can hardly be described as a set policy However whatever may have been the hope aroused in the minds of those responsible for the reforms of 1919 the plain fact is now too clearly borne in upon us that the alternative before the British people is plain they must choose between the rule of the people by the people or their rule by the Civil [illegible] institution cannot be controlled by a Service Association and their it and even if they had not ed

Arguments against provincialisation

183 It was this one reason which has united all responsible bodies in demanding that members of the Civil Service should never be appointed to govern a province since it is not possible to

Public men as Governors.

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1 Report § 327

convert even by a royal warrant a sun dried bureaucrat into a democrat and he who has been nurtured in the school of centralised autocracy can never be trained to unlearn the lesson of his life and guide a popular government which only a man trained in the school of public life and imbued with parliamentary traditions can be expected to do. It may be that some of them may be found possessed of the qualities of constructive statesmanship which may shoot forth if they are not surrounded by a phalanx of bureaucrats to advise and guide, and if necessary, control them. That dyarchy has failed in a Province like Bengal is not relevant, as it is not claimed that granted a Parliamentary Governor other causes may not destroy the fabric, but what is claimed is that other things being equal, a Governor drawn from the rank of the Civil Service ordinarily retards, whereas a Governor drawn from the public ordinarily assists the growth of self government. That in spite of these drawbacks the Provinces have as a rule evinced creditable results only proves that the people possess latent faculty for self government which given time and opportunity would assuredly make the experiment of Home Rule as successful in India as it has been everywhere else.

British qualities

184. The members of the Civil Service contend that the British element possesses the innate quality of government which the Indian element lacks and that therefore "no purely Indian staff will be regarded as possessing the same inherent quality of government." This is on the civil side and it is the verdict of those who after holding some of the highest positions in India are now the members of the India Council and so shape the policy of the Government of India. The same superiority complex on the military side is emphasised by one who after long and meritorious service in India is now deemed an expert authority on military questions. He has permitted himself to say that he cannot foresee a time when India would have a Dominion Army of her own and be able to undertake its own defence without the stiffening of the British Army, and until India is able to undertake its own defence without the stiffening of the British Army, and until India is able to defend herself her aspiration for self government is an idle dream. But if these arguments be sound then the conclusion is not that there should be no further reforms but that there should not have been any reforms at all. Since according to these experts India will never be able to defend herself, it follows that India can never hope for self government. In this respect India does not stand alone for it is even opined that if you take the 40th degree of latitude North of the Equator and go round the world the people who live south of that line not in the hills climates, not living in mountains are very much more effeminate in war and not quite so brave as those who live in more temperate climates further north.

185 Then again a complaint is frequently made that the Indian temperament does not throw out under the modern conditions of warfare the quality of leadership But when it is pointed out that, until 1916, Indians were held ineligible even for the King's Commission, we are told that that is true, the reason being that they were so absolutely illiterate But when one is asked why the literate classes were not drawn upon for officering the Army we are told that in India when a man becomes literate he becomes effeminate — Defects Indian character

186 The position is then this—India being below 40 degrees latitude it can never produce the requisite war material It may turn out soldiers, brave and courageous within limits, but they must be led by British Officers Indian Officers cannot lead them because the sepoy cannot be promoted to that rank as he is illiterate, and if he be made literate he would become effeminate And as this view is largely responsible for shaping the military policy of India we are not surprised that it has been steadfastly reactionary A great soldier may easily moralise upon the capacity of a people who have been disarmed for a century and who have been in every way discouraged to undertake their military training and when the exigency of the Great War called for the exploitation of the man power of India the Indian soldier not only distinguished himself but showed his capacity for leadership in the most trying circumstances as the official record of the war summarised by another great soldier entitled "The Indian Corps in France" amply testifies

187 We hold that the only question we have to consider is not — Objection refuted
the inherent incapaci
Dominion army but
to advert in another
the Army of India[1] We have interposed this subject here for the purpose of showing the attitude of eminent military experts towards India and how little Indians can expect from these so called guardians of Indian interests

188 It may be that such view is current in a wider circle of British army men If so do they pause to consider that countries like Turkey, Arabia, Persia and Japan ... lie within the effeminate belt, still Turkey has only recently exhibited unexampled prowess and unsuspected capacity for organisation in her war
... of their ...
... Japan's ... mor
... f the glorious pages
... oth the misfortun
in her history Africa and ...
to lie within the so called effeminate zone but their contribution in the Great War, their heroism and sacrifice must have been forgotten too soon by those who would condemn a given geographical area to perpetual lack of high martial qualities It

[1] See Ch. V (VII)

and the converse proposition is equally true The voter feels no particular respect for or an allegiance to the ministers whom he regards mainly as office holders and not as agents chosen by him self A government composed of ministers, without the support of European colleagues secretaries, heads of departments and district agencies, will be essentially a committee of placemen rooted neither in the proved vitality of the electoral system nor in the confidence of the people as a whole "[1] It may at once be conceded that all these objections are sound so far as they go, but they are not new and existed and could have been and were indeed foreseen in 1917 when the pledge was given

191 A reference to the memoranda then published shows that every one of these objections was stated with even greater emphasis and all of them were marshalled against the introduction of any reforms in India But Parliament not only made the famous *Declaration of its policy* but followed it up by enacting the Reforms Act two years later The history of those reforms during the last 10 years is now contained in a considered review of the several governments to which we have already referred in another place We feel convinced that the objections though formidable at the inception of the reforms have since lost most of their piquancy and that with the further transfer of power the civic sense already brought into action will develop and grow and that in the realm of politics as in the other realms of human endeavour all misgivings can receive only one solution—*solvitur ambulando*

192 The [illegible] the Hindu Moslem [illegible] has hitherto made it nece[illegible] on a religious basis Communal electorates are clearly a violation of a really democratic system, and in themselves they are a denial of real "provincial autonomy" because the proportions of parties in the legislature are fixed by external authority The prescription of definite proportions between religious parties in local bodies and universities and sometimes even in public services is a further denial of the basis of true democratic faith But even more serious in practice are the effects on the administration communal feeling prevents the formation of truly political parties (except on a religious basis which is the worst basis of all) It prevents cohesion amongst ministers and it impedes confidence between a minister and his departmental and service staffs and in times of stress it will paralyse a purely Indian executive

193 As to this while we feel constrained to acknowledge the evil effect of training public life with religious bias we cannot forget that communal representation [illegible] th in the public bodies

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[1] Memorandum [illegible]

be sure that the Ministers and the Legislatures combined will prove a stronger corrective than a mere tradition, and as for the *esprit de corps* if it means anything more than cordial co-operation with other members of the service, it is a frailty and not a virtue which has contributed to the unpopularity of the services since it is to that feeling amongst his comrades that a slack and inefficient officer in the last resort appeals for his escape from the consequence to which he would otherwise be exposed. We are not sure in what measure the civilian's unpopularity in the judicial service in India is due to his lack of application and ignorance of the Indian law and want of familiarity of the customs, habits and usages of the people, and in what measure to his feeling of *esprit de corps* which inclines him to uphold the decisions of the man on the spot. Members of the Civil Service Association earnestly plead for the retention (even expansion) of the British element in the security services in which they would include the Indian Medical Service. We agree with the Lee Commission that the Medical Service should be immediately provincialized and we are wholly opposed to the retention of the judicial quota of the Indian Civil Service. We think that the civilian is still required in the executive branch but to what extent must be left for the decision of the provinces concerned; we have already dealt with the Police.

Lee Commission's Recommendations

196 Having disposed of all the objections both against the Indianization of the services and their provincialization we have very little to add in support of our constructive proposals which follow the line of recommendations made by two Royal Commissions presided over by Lord Islington and Lord Lee which have dealt with their Indianization and provincialization respectively. Referring to Indianization the Lee Commission said —

"We do not propose to argue the case for Indianization *de novo*. The question was among those remitted for consideration to the Islington Commission and the various relevant considerations were fully discussed in that Report.[1]

That Report was signed two years before the Declaration of August 1917 which, as the Lee Commission observe, had entirely changed the constitutional outlook. In the days of the Islington Commission the question was how many Indians should be admitted into the Public Services? It has now become "what is the minimum number of Englishmen which must still be recruited?"[2] This disposes of all arguments against Indianization. There remains the second question of provincialization on which the Lee Commission have made a considered pronouncement which we accept. It is not therefore necessary for us to cover the same ground over again and reargue a case which the two previous Commissions have settled for us. We have therefore no hesitation in recommending that

[1] Report § 32 p 17 [2] Ib § 34

the Provinces to which we are transferring full autonomy should be left entirely free to recruit their own services and that it is for them to decide whether they need Europeans for any service, or for any post and to make their own arrangements accordingly

'The Dilemma of India'

197 We do not know how far the attitude of the Civil Service generally towards the Reforms is voiced by a distinguished member of that Service who headed a deputation of the Retired Service Association, and was good enough to educate us in the views of his service which the deputation assured us were held by the members of his service generally As this evidence was given *in camera* we cannot refer to it in our Report But what we are free to do is to refer to his recently published work styled the *Dilemma of India* in which he condemns the announcement of 1917 as the outcome of ignorant idealism[1] the subsequent reforms which followed it as to tower built before its authors had counted the cost and which is now proving to be a second Tower of Babel To him and to those who think with him the term "responsible government" as applied to India is "a complete fraud and sham" because India has no single nation or a group of nations to assume the responsibility of governing themselves He opposes Indianization of the Services and opines that the Indian character lacks the moral fibre or driving power which has made the British services in India so efficient and pure To him the Indianization of the services even to the extent recommended by the Lee Commission of which he was a member, and to their recommendations a consenting party, was a mistake "You may instil Western doctrines in to the minds of these oriental people, they may alter their form of speech, but they do not alter their actions and reactions"[2] Character, he says, does not change in five years He is a firm and uncompromising apostle of firm rule by the British All he wants all he cares for, all that matters to him is honesty and efficiency To him good government is a far better substitute for self government for India[3] "The people in India hate changes they are not groaning, they are prospering Why should they wish to embark on so dangerous an experiment which may place them under the iron heel of some oppressor almost as alien as the British?"[4]

Its Scheme of Reforms

198 He then suggests a scheme of the so called reforms which he seriously thinks will fulfil both in the letter and in spirit the assurances given in Queen Victoria's Proclamation and the Preamble of the Reforms Act He would create an Indo-British partnership in which the composition of the Council will be so arranged as to be absolutely impotent For instance he gives an imaginary composition of a Provincial Council which out of say 100 members 65 will be elected dividing between [illegible] for land 10 for commerce and 20 for the profes... sub dividing them again between Hindus and Muhammedans

[1] pp 170, 171 [2] p 7[illegible] [3] p 2[illegible] [4] p 2[illegible]

in the case of the land between Indians and Europeans in the case of Commerce "while the professional intelligensia being enlightened should require no communal electorates"[1] Of the Executive half shall be British and the other half Indians, over which and above them all there would remain the ever abiding power of supervision direction and control of the Central Government He knows that his scheme would be denounced as going back to the Morley Minto scheme, so he is content to deny it adding that it is merely the change of route[2] As for the Central Government he would stiffen it by the same process reconstituting the Assembly of 120 composed of 25 officials 25 official nominees and 39 added by indirect elections, in addition to which he would constitute a "Darbar" of elder statesmen of nominated men who will act as the revising chamber "The situation in India is approaching a crisis", he adds So it is but his scheme would precipitate it A final appeal addressed to the Statutory Commission in the interest of the "masses of India", of which the writer considers himself the accredited spokesman makes a passionate appeal for "great firmness", and pleads for the maintenance of our British Services in full security

199 We would have hardly paused to reply to so sweeping a diatribe against India and the Indians but human memories are short and few may remember that the present agitation against further advance is merely a recrudescence of a similar propaganda which faced the pioneers of the new reform movement 10 years ago A reference to the fugitive literature then printed shows however that the protagonists of the present opposition have nothing better than a *reel auffe* of the old arguments to offer Then as now we are treated to individual views of Indians who decry all advance and fear that India is moving headlong to its political perdition by recasting its governmental machinery Then as now a perfervid appeal is made in the name of the masses who are declared to be happy and *contented* with the rule of a foreign Bureaucracy and all agitation for progress is ascribed to the machination and mischief of a set of lawyers and carpet bag politicians who are *anxious* to feather their own nests by disturbing the *Pax Britannica* which the British Civil Service has established But unfortunately for their apologists the masses of India are now far more aggressive than the despised intelligensia and during our long tour in the country when the masses were given special facilities to send up their representatives there was not a single individual that we can remember who unfolded to us his desire to go back on the reforms or to arrest their forward march *On the other* hand wherever we went we heard complaints of their inadequacy and the ever ringing cries for Swaraj In the face of this evidence we cannot admit the writer's *ipse dixit* of what India wants and what will satisfy India for we know that the facts are far otherwise Old objections again

[1] Ib 31 313 [2] P 315 [3] P 335.

the Provinces to which we are transferring full autonomy should be left entirely free to recruit their own services and that it is for them to decide whether they need Europeans for any service, or for any post and to make their own arrangements accordingly

"The Dilemma of India"

197 We do not know how far the attitude of the Civil Service generally towards the Reforms is voiced by a distinguished member of that Service who headed a deputation of the Retired Service Association, and was good enough to educate us in the views of his service which the deputation assured us were held by the members of his service generally As this evidence was given *in camera* we cannot refer to it in our Report But what we are free to do is to refer to his recently published work styled the *Dilemma of India* in which he condemns the announcement of 1917 as the outcome of ignorant idealism,[1] the subsequent reforms which followed it as to tower built before its authors had counted the cost and which is now proving to be a second Tower of Babel To him and to those who think with him the term "responsible government" as applied to India is "a complete fraud and sham" because India has no single nation or a group of nations, to assume the responsibility of governing themselves He opposes Indianization of the Services and opines that the Indian character lacks the moral fibre or driving power which has made the British services in India so efficient and pure To him the Indianization of the services even to the extent recommended by the Lee Commission of which he was a member and to their recommendations a consenting party, was a mistake " You may instil Western doctrines in to the minds of these oriental people, they may alter their form of speech, but they do not alter their actions and reactions "[2] Character, he says does not change in five years He is a firm and uncompromising apostle of firm rule by the British All he wants all he cares for, all that matters to him is honesty and efficiency To him good government is a far better substitute for self government for India [3] "The people in India hate changes, they are not groaning they are prospering Why should they wish to embark on so dangerous an experiment which may place them under the iron heel of some oppressor almost as alien as the British ? "[4]

Its Scheme of Reforms

198 He then suggests a scheme of the so called reforms which he seriously thinks will fulfil both in the letter and in spirit the assurances given in Queen Victoria's Proclamation and the Preamble of the Reforms Act He would create an Indo British partnership in which the composition of the Council will be so jerrymandered as to be absolutely impotent For instance he gives an imaginary composition of a Provincial Council in which out of say 100 members 65 will be elected dividing them between 30 for land 10 for commerce and 20 for the professions subdividing them again between Hindus and Muhammedans

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[1] pp 170 171 [2] p 77 [3] p 26[illegible] [4] p 2[illegible]

2

in the case of the land, between Indians and Europeans in the case of Commerce, "while the professional intelligensia being enlightened should require no communal electorates"[1] Of the Executive, half shall be British and the other half Indians, over which and above them all there would remain the ever abiding power of supervision direction and control of the Central Government He knows that his scheme would be [illegible]

[illegible]

process reconstituting the Assembly of 120 composed of 25 officials 25 official nominees and 39 added by indirect elections; in addition to which he would constitute a "Darbar" of elder statesmen of nominated men who will act as the revising chamber "The situation in India is approaching a crisis", he adds. So it is, but his scheme would precipitate it A final appeal addressed to the Statutory Commission in the interest of the "masses of India", of which the writer considers himself the accredited spokesman, makes a passionate appeal for "great firmness", and pleads "for the maintenance of our British Services in full security"[2]

199 We would have hardly paused to reply to so sweeping a diatribe against India and the Indians but human memories are short and few may remember that the present agitation against further advance is merely a recrudescence of a similar propaganda which faced the pioneers of the new reform movement 10 years ago A reference to the fugitive literature then printed shows however that the protagonists of the present opposition have nothing better than a *rechauffe* of the old arguments to offer Then as now we are treated to individual views of Indians who decry all advance and fear that India is moving headlong to its political perdition by recasting its governmental machinery Then as now a perfervid appeal is made in the name of the masses who are declared to be happy and contented with the rule of a foreign Bureaucracy and all agitation for progress is ascribed to the machination and mischief of a set of lawyers and carpet bag politicians who are anxious to feather their own nests by disturbing the *Pax Britannica* which the British Civil Service has established But unfortunately for their apologists the masses of India are now far more aggressive than the despised intelligensia and during our long tour in the country when the masses were given special facilities to send up their representatives there was not a single individual that we can remember who unfolded to us his desire to go back on the reforms or to arrest [illegible] march On the other hand wherever we went, [illegible] and the ever ringing [illegible] lence we cannot admit [illegible] s and what will satisfy the writer's ipse dixit [illegible] India for we know that the facts are far otherwise

Old objections again

1 Pp 312 313 2 P 315 3 P 335

That the writer is perfectly entitled to plead for and protect the interest of his own service is perfectly natural and we have given due weight to his representation and in making our recommendations we have not forgotten to safeguard the interests of all its present incumbents who might be affected by the possibility of further reforms

The Civil Service and the Reforms

200 It is true that with each stage towards responsibility both the number and influence of the Civil Service must diminish and the greater the success of the reforms the greater must be the pace of its elimination as a privileged service Members of the Service know it too well and still we have not met one of their number in active service who has echoed such reactionary views On the other hand, they have as a rule recommended the grant of provincial autonomy with or without the reservation of law and order We must therefore in fairness to the distinguished service of which Sir Reginald Craddock is himself a retired member add that it would be wrong and misleading if an impression got abroad that the views expressed in the *Dilemma of India* are generally held by a considerable section of civil servants and even those who may share his views cannot help realizing that we are not writing upon a clean slate and that it is now too late to set back the hands of the clock and that the only counsel we can give to those who like the writer suffer from a dilemma is in a r fr n sug sted to us by one of our colleagues —

If w go forward we die

If we go backward we die

Better go forward—and die!

Ministers' views

201 We have hitherto confined our remarks to the objections of the services and their claim for continuance but it does not exhaust the subject or the limit of our inquiry Five years back when the Lee Commission drew up their Report they found abundant evidence to show that while the Services were perfectly satisfied with their treatment by ministers the ministers felt that they could not discharge their obligations to the Legislative Councils or to the country without being given direct control over their own agents They claimed to be set free to appoint their own agents on their own terms We have heard less on this subject in the course of our own inquiry because everybody concerned had assumed that the Lee Commission had already said the last word on the subject But it was a common complaint then which has gained momentum with the passage of time that all the highly paid services need to be reorganized Both in the Central Legislature and in the Local Councils resolutions have been passed for the abolition of several highly paid posts such as those of Divisional Commissionerships expenditure upon which runs into several million sterling annually These recommendations received a

Abolition of superfluous posts

striking support from the several Retrenchment Committees in which the services were adequately represented and over many of which high service men presided Several local governments have explained their inability to give effect to these counsels of economy on the ground that the posts were created and can only be abolished by the Secretary of State That a large body of officers at one time necessary to formulate a policy and exercise a general control has become unnecessary, and delays, if it does not hamper, the speedy transaction of public business is now apparent, and it is only fair that the Provinces who have to pay for their services must be free to decide in what measure and to what extent they require their services This aspect of the question is too obvious to be overlooked , but it is overlooked in a general discussion on efficiency, which must never be permitted to give the go by to an equally important consideration of economy Then again we are too apt to forget that a thing good at one time is not necessarily good for all time , and whatever may be the merits of the British Services and they are undeniable, they undoubtedly suited a skeleton constitution in which mobility and general knowledge were all that were required to the conditions then existing But the days of Admirable Crichtons are passed—we now live in an age of specialization and our services must be specialized to suit the altered outlook of the age That the British officers still clinging to old traditions and the old method of government are experiencing great difficulties in discharging their [illegible] Legislatures is acknow[illegible] has therefore really [illegible] friction which must [illegible] be removed by giving the Provinces the option to which in all conscience they are entitled

202 In coming to our conclusion our judgment has been naturally weighed by considerations other than the [illegible] appeal to efficiency though we have not overlooked or subordinated that essential condition of all public services which is the bed rock of good government

Summary of Recommendations

203 We will now conclude our observations with the following summary of our conclusions on this head —

(1) We consider that the two questions of Indianization and provincialization were sufficiently threshed out by two Royal Commissions and we abide by their decision

(2) That following their recommendations we recommend that all Provincial Governments should be set free to recruit and control their own Public Services

(3) That in making appointments thereto the prime factor of efficiency should not be sacrified to communal or class claims ,

(4) But that otherwise, being in the nature of public patronage the claims of all communities should be adequately considered and so far as possible met

(5) That the present incumbents in the cadre of the All India Services should continue their present rights and privileges as regards pay control and pensions so long as they are entitled to continue in service

(6) But that otherwise all future recruitments whether Provincial or *on the basis of the All India Services* to the extent necessary or desirable should be left to be made by the Governments of India or the Provincial Governments in the enjoyment of full provincial autonomy

(7) That the business of such recruitment should as far as possible be entrusted to a Public Service Commission a body the constitution of which must be left to the Governments concerned

CHAPTER V

THE GOVERNMENT OF INDIA

I

THE LEGISLATIVE ASSEMBLY.

204 The constitution of the Legislative Assembly under the Reforms Act closely follows the recommendations made in the Montagu Report The Assembly and the Council of State are the natural successors of the old Imperial Legislative Council in which the official element had a preponderating majority comprising, as it did, of 60 members, of which only 27 were returned by a method of indirect elections made by delegates of local bodies The Montagu Report advocated a distinct departure from the beaten track of mere consultative bodies, which guided but could neither materially influence or control the policy of the nomination This fact is recognised—for the authors of the Report say "It is no longer sufficient to administer India, it is necessary also to satisfy the political aspirations , and because we were all too slow in taking cognizance of the changes that were occurring, the task is all the heavier because there is lee way to make up "[1] Its history.

In the opinion of the Indians that lee way was never in fact made up and it had gone on widening with the result that we have to make up for the past and provide against the future breakdown of the entire system

205 However as it was the Montagu Report postulated the continuance of bureaucracy in the Central Government slightly relieving it by making it more responsive to the voice of the Legislative Assembly This they proposed to do—

(a) By providing that the Secretary of State should act "not merely in accordance with British views but with regard also to the expressed views of those who represent constituencies in India "[2]

(b) By providing that the wishes of India should be further represented in the Cabinet of the Country [3] This was to be assured by the appointment of more Indians to the Viceroy's Executive Council [4]

(c) By securing that the majority of members of the Legislative Assembly shall be elected [5]

206 But at the same time in order to insure the passage of Bills which the Government of India considered it essential for the discharge of their responsibility to Parliament a second chamber was constituted with a clear official majority [illegible] will Value of a Second Chamber

1 Report, § [illegible]
2 Ib § 2[illegible]0
3 Ib § 2[illegible]2
4 Ib § 2[illegible]
5 Ib § 2[illegible]

be presently seen the proposal as to the majority was not however concurred in by the Joint Parliamentary Committee and in the result a second chamber with a small non official majority was constituted

207 The experience of one of us who has sat in the Legislative Assembly ever since its inception and of those who have sat in it since has convinced us that the first two provisos have remained a dead letter The action of the Secretary of State has not been visibly influenced by the decisions of the Assembly, while the substitution of three Indian members for the European members of the Viceroy's Executive Council has not been invariably and in later years at all made with the view that the wishes of India should be further represented in the Cabinet of the country "

Viceroy's Council

208 These appointments have rather been influenced by the rule of political expediency with the result that a wider chasm has been created between the Viceroy's Council and the Viceroy's popular Assembly Opinion in India is almost unanimous—an opinion which is largely voiced by the representatives of European Associations—that the Indian personnel of the Viceroy's Council has not been drawn as well as it might have been from the elected representatives of the Indian Legislature The invariable rule has been to recruit men from outside and not always from the ranks of public men

Even if this were the case had they been more responsive though not responsible to the Legislative Assembly the fact would have greatly increased the confidence which the Assembly members would feel in them and confidence in nine points of politics

It might be said that our proposal would not obviate this objection since what we propose to establish is a dyarchy in the Central Government which from all accounts stands condemned in the provinces where it was first tried We can only say that though our proposal might at first be open to that objection we find that even if it were formidable it would be a case of Hobson's choice—for we have no other alternative But at the same time it would seem to us that there is a marked difference between administration and control and while dyarchy presents all the objections stated against it the same objections do not necessarily apply to the working of a department the functions of which are different

Justification for advance

209 As a matter of fact the fact that bureaucratic control with joint responsibility in the Central Government has so long held the field makes us feel that it may not be so difficult to remove bureaucracy transferring the ultimate control from the British to the Indian Parliament which would more closely guide the ministers in the formulation and execution of their policy No other course is possible We have granted a full measure of responsibility to the provinces and with Mr Montagu "we cannot think that States on the way to responsible Government

which have imbibed a large element of responsibility into their constitution, can be controlled by a purely autocratic power. So also with the duties extending over the whole of India which will be discharged by the Government of India as its special concern. It is impossible that while other duties which differ from them mainly in being local in scope or subject to provincial differentiation are being administered by responsible Governments those which fall to the Government of India should be administered autocratically. It follows, therefore, that a change in the Provinces implies change in the Government of India but it does not imply that the change should be simultaneous or in equal proportion. On the contrary, the change need simply be so much as to render the Government of India a suitable instrument for controlling the provinces at the stage at which they have for the time being arrived."[1]

210. Experience of the last nine years has sufficiently refuted the closing conclusions of the Report. The establishment of a dyarchical form of Government in the Provinces made the autocracy in the centre never popular suffer by contrast. It became intolerable. The grant of full provincial responsibility would make the retention of autocracy in any form in the Centre impossible, while apprehensive of the danger that must flow from the retention of three departments in the control of autocracy we have adopted a line which we hope might suffice to assure those who dread a change to a new order while it might equally encourage those who wish to go forward to move with greater confidence. The change we propose is merely a palliative and not a cure. We wish we could have gone further and some of us feel that the control reserved may recoil on the control transferred to the ministry. But we had to strike a balance for without such balance our Committee would not have even ventured upon the uncharted sea of an adventure in the Central Government. Reconsideration of the conflicting views representative of the advanced as also of the conservative schools was only possible in adopting the intermediate course which has command[ed] a majority in the Committee and it is that view that we must justify here. Defence of Central Dyarchy

211. The Committee propose to leave three main subjects out of the reforms namely foreign political and military. Foreign subjects have not been categorised but would we presume comprise such subjects as peace and war and India's relations with foreign nations of British India with well understood to comprise auxiliary subjects as ordinance Forces together with such strategic outposts. All these are at pres[e]nt factories forts and strategic outposts most valuable and comprise the most important items in the annual budget.

[1] Report § 270

212 Taking the three subjects in their reverse order, we have first to consider how far we feel justified in keeping the military expenditure out of the vote of the Assembly The latter complains that the Army in India is maintained partially, and the British *garrison mainly*, as a part of the Imperial forces in the East, and that India is unjustly saddled with the entire cost of the British garrison stationed in India, including even its recruitment, training and travelling to and fro These items known as the capitation charges entail the annually recurring cost of about two million pounds Indians complain that no possessions of Great Britain—South Africa Australia Ceylon and the Malaya States—maintain any standing army because they know that the Indian Army stands by to defend them in case of need, and yet these possessions do not contribute a cent towards the discharge of this Imperial obligation the cost of which is met out of the revenues of India Burma wishes to be separated because she hopes to profit by the example of her neighbours and save her contribution to the Indian Exchequer in which the military demand bulks so largely

213 *That India needs an army to defend her frontiers admits* of no doubt But what the Indians complain of is that 65000 white troops are not necessarily the minimum required for that work and that half of them are distinctly maintained for Imperial purposes The drain on India is thus severe, made more severe by the fact that the cost of our British soldier is no less than five and a half (really more than six) times the cost of an Indian sepoy The officering of the Indian Army is another grievance on the part of India since it is claimed that an Indian Army should be officered by Indians and not by the more costly Europeans Then again the general policy as regards the Indian Army is controlled by the British War Office and in spite of the declarations made that the War Office only advise the Secretary of State the fact remains that the advice of this department is not given with the sole desire to safeguard the revenue of India for if the choice lies between England and India it is but natural that the British should support England But although our Committee has formally *reserved the* Army it must not be assumed that the entire Army Budget should escape the scrutiny of the Assembly which should be free to vote upon the military grant but the Governor General should be armed with the larger power of certification up to the minimum cost which might be settled by agreement or convention The question whether the Governor General should be singly responsible for the administration of Foreign and Political Departments or should not be made free to call in aid a body of experts will be found discussed under another head[1]

[1] Ch V (III)

II

A Second Chamber

214 The necessity for a Second Chamber is justified both on historical and *a priori* grounds—on historical grounds because it is a long tradition handed down to us by the Romans who had two Consuls because they felt that neither of them should be exposed to the corrupting influence of undivided power, even for the space of a single year That policy has been followed in the institution of the judiciary where benches of two or more judges are appointed to decide questions between parties The two chambers in the British Parliament, however, owe their

True purpose of a Second Chamber

They were not instituted upon the appointment of Roman

rica the bi cameral legislature has become real but there too the system has grown out of a diet of ambassadors representing separate and virtually inde pendent states The Second Chambers in the Overseas Dominions of England have followed both the precedent and moral of the British dual Houses not for any special reasons but following the general policy of adopting and embodying as far as possible and as much of the British Constitution as possible Sir Henry Jenkins says —

> The genius of Earl Grey not only devised for the greater colonies a system of Government which reproduces as nearly as possible the external features of our own but breathed into the copy the inner essence of the original possibility of silent constitutional growth

215 In none of the great Dominions has there been any attempt to introduce the principle of uni cameral legislatures so that its utility has never been put to the test In France the French Senate and the Chamber of Deputies present another parallel of bi cameral legislation The historian notes the con stitutional conflict between the two Houses and sneers at the reduction of political science to a laboratory of constitutional experiments but all the same the two Chambers have become the guiding principle of all parliamentary governments and re main so despite their past errors As Sir Henry Maine remarked "There was much reason to believe that the British House of Lords would have been exclusively or much more extensively copied in the constitutions of the Continent but for one remark able difficulty This is not in the least any dislike or hatred of the hereditary principle but the extreme numerousness of the nobility in most Continental Societie and the con ... nt difficulty of selecting a portion of them to be exclusively privileged" But these words were written long before the War Mr Lecky says "The necessity of a Second Chamber has acquired almost the position of an axiom" On

the whole the Chambers in the Continental Constitutions have worked well though they have in general not yet had a very long experience and most of them—especially those of a composite character—have included a large proportion of the chief elements of weight and ability in their respective countries

Hereditary and elected Second Chamber

216 The British House of Lords, and the Upper Houses constituted in the British Colonies and in America essentially differ in that while the British House of Lords is hereditary the Second Chambers of the Continent of Europe and elsewhere are elected or nominated much on the same lines as the Lower Houses. The persistence of the Second Chambers in the Constitutions of the World owe their justification to the fact that while the popular House of Representatives may at times pass hasty legislation to satisfy the popular clamour the Upper House acts as a brake and modifies, revises or overrules the hasty and ill considered decisions of the other and more representative Chamber. It is also perhaps one of the reasons why the Second Chambers have continued to exist and have worked so well as they have because the personnel thereof is drawn from a smaller body of experienced jurists, politicians and publicists who had retired from the more controversial arena of life and are prepared to give their mature judgment upon affairs of State. But the Second Chamber, in order that it should command public confidence and public respect of the considered opinion of the people must be at least mainly elected. As Mr Henry Sidgwick points out "the Second Chamber in order to be able to maintain a real co-ordinate position against the pressure of the popularly elected assembly must itself be also in some way, perhaps indirectly, the result of popular election ... in order to get the full advantage of the system of two Chambers with co-ordinate powers it seems desirable they should be elected on the different plans in respect both of extent, renewal, operation and power so that while the primary representative Chamber being chosen for a comparatively short period may more frequently represent the opinions and sentiments of the majority of the electorate the Senate elected for a considerably longer period and on the system of partial renewal may be able to withstand the influence of transient gust of popular passion or sentiment."[1]

Second Chambers in other countries

The constitution of the Second Chamber so widely differs in the different countries that it is difficult if not impossible to generalize upon it. Thus for example the American and the Australian Senates represent the states, every state large or small being equally represented. The French Senate is elected by a method of indirect elections through the medium of delegates elected by the towns. In neither system does the Senate represent the people on a basis strictly proportioned to population though the French system approaches that basis much more nearly

1 Elements of Politics pp 474—476

than the American and the Australian Senates That method of election says Lord Bryce, "was justified as giving a representation of the people not merely by numbers but by local social groups each of which had a common interest and so a collective opinion The idea was in so far a good one that it brought in many men of personal distinction who gave lustre to the body in the eyes of the nation and helped to form in its members habits of decorum and gravity as well as to set a high intellectual standard in its Debates "[1]

217 According to Lord Bryce, the French Senate is not used as an originating Chamber, though it has acted wisely as a revising authority on the hasty and, at times, ill conceived measures brought to it by the Chamber of Deputies The French Cabinet is drawn mostly from the Deputies but three or four Ministers are equally taken from the Senate to which distinguished men drawn from all ranks are attracted "Veterans of renown seek its less troubled and turbid waters, instead of the atmosphere of strife in which the larger House lives, and which make its Debates exciting There reigns in the Senate a sedate and sometimes almost languid tranquillity befitting the comparatively advanced age of its members (The average age of the Senators is 63) Some critics say it has the obsolete air of a *theatre de la rive gauche*, or describe it by terms corresponding to the American "side show," because it wants the vivacity of the Chamber, and draws far less of the attention of the nation Nevertheless the position of a Senator is coveted, and his authority considerable The level of the discussions is well maintained, not only as respects matter but also in the form and diction of the speeches Brilliant oratory [illegible] has in modern times sh[illegible] and the knowledge among [illegible]

The French Senate

[illegible] Constitutions of the world would [illegible]ve more or less been followed in [illegible]verywhere In Fran[illegible] and the [illegible] elected by indirect or secondary [illegible]nator is elected for nine years [illegible] or four In the United States of America the terms are six years and four years respectively The electoral area for the two cases is different It seems also apparent from these considerations that nominated members in such Chambers are reduced to a minimum as it has been felt that nominated members too readily lend themselves to party convenience In India before the advent of the Montagu Chelmsford Reforms, there was a single Chamber both in the Central and Provincial Governments The Montagu Chelmsford Report for the first time introduced the element of bi-cameral legislation in the Government of India and the Statutory Commission was to advise whether the expedient of a second

Second Chamber a settled fact

1 Modern Democracies, p 282 2 Ib p 266

Chamber was desirable or not in the Local Legislatures From the terms of reference in Section 84A of the Government of India Act it would appear that the continuance of a Second Chamber in the Government of India is to be regarded as a settled fact and that its extension to the Provinces is a matter for report The Montagu Chelmsford Report however recommended the constitution of a Second Chamber as a substitute for withdrawing the Government majority from the popular House They added "that we do not propose to institute a complete bicameral system but to create a Second Chamber which shall take its part in ordinary legislation and shall be the final legislative authority in matters which the Government regard as essential"[1]

Composition of the Council of State

219 They then set out the constitution and composition of the Council of State The Joint Parliamentary Committee however made one important modification in the composition of that body They did not approve of the standing Government majority in the Second Chamber and advised the strengthening of the elective element holding that if it was necessary for the Government to secure the passage of legislation which the Legislative Assembly refused and which they regarded as essential for the discharge of their duty they should do so by certification rather than resort to the unworthy method of concealing their responsibility through the action of the Council of State so established and devised to secure the necessary power " They believed " they added " that in such a case it would add strength to the Government of India to act before the world on its own responsibility "

Council of State its work in the past

220 It is our duty now to examine the work of the Council of State and see how far it has responded to the expectations raised of it as a revising Chamber We feel constrained to admit that our experience of the working of that body for the last nine years has led us to the conclusion that in spite of the small unofficial majority in the Chamber it has invariably supported the Government and has virtually taken the place of the official bloc removed from one Chamber to another Out of sixty three members of the Council of State thirty three are nominally elected while twenty seven are nominated by Government But as the elected members are drawn from the landed and leisured classes who do not feel the same incentive to leave their homes to go to far off Delhi or Simla as do the nominated and official members who act under discipline the total strength of members present at any meeting in the Council of State has always maintained a preponderating majority for the Government Moreover it is only on rare occasions that the nominated members have had the courage of their conviction to oppose the official view They owe their nomination to the Government , nominations are presumably carefully made and the nominees themselves

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[1] Joint Select Committee's Report § 28

feel the obligation to their nominator and live up to their nomination by supporting the officials in the hope they would thereby secure re nomination for a further term of years Whatever may be the reason the Council of State has aroused deep hostility in the country and has frequently antagonised their representatives in the Legislative Assembly Measures passed by that body have been turned down for no reason other than that the Government opposed them *Instances can be multiplied* but a few would suffice to illustrate our point The Princes Protection Bill was thrown out of the Legislative Assembly at its first reading It was passed by the Council of State A small Bill amending the Code of Criminal Procedure and the Evidence Act was similarly passed by the Council of State when its very legality was challenged with success in the Legislative Assembly A measure to grant protection to British subjects drawn on the lines of the Habeas Corpus Act was several times passed by the Assembly but was thrown out by the Council of State as often as it was passed Every page of the proceedings of the Council of State would show its reluctance to assert itself *We are not able to advise the retention of the Council* of State in its present form and we would suggest that radical changes be made to ensure that that body entirely answers the purpose for which the Second Chamber has been devised in the other Constitutions of the world

Our proposals in conclusive

dis but this th ibly,

from which the official bloc has been removed we cannot see in logic or in justi

same time with

feel the necessi

might well follow the model of the French Senate But what ever model is followed there must be a greater correlation between its function and the competency of those called upon to discharge it We think that the sub-division of the electorates into classes and communities is not here essential If any community is to receive protection it must be by a reservation of seats but otherwise the election should attract the distinguished veterans who are so attractive a feature of the French Senate

222 And in order to ensure greater *camaraderie* between the two Chambers we feel predisposed to favour the election of a certain number from the Assembly to the Council of State Some of us think that for the same reason a certain number of the Assembly *members* might be similarly elected by the provincial Councils But these are questions of *detail upon* which our Committee have not had the time to bestow critical consideration But those of us who have made a study of the constitution would be best able to go into details if the broad principle of their recommendation meets with acceptance

III

The Indian States

The Indian States

223 Under Section 33 of the Government of India Act "the superintendence direction and control of the Civil and Military Government of India is vested in the Governor General in Council who is required to pay due obedience to all such orders as he may receive from the Secretary of State"

Within the terms of reference

224 By Section 124 of the Amending Act[1] the word India as used in Sections I and II of the Government of India Act includes not only British India but also "any territories of any native Prince or Chief under the suzerainty of His Majesty exercised through the Governor General of India or through any Governor or Officer subordinate to the Governor General of India" References to India as distinct from "British India" occur in several sections of the Government of India Act In s 20 (3) of the Act the revenues of India are defined to include the tributes paid by the Indian States and under s 67 (2) (*d*) it is not competent to the Indian Legislature without the previous sanction of the Governor General to introduce a measure affecting "the relation of the Government with foreign Princes or States" It is further provided *inter alia* by s I of the Government of India Act 1858 that all powers in relation to Government vested in or exercised by the East India Company, and all rights vested in it which if this Act had not been passed might have been exercised by the said Company in relation to any territory shall become vested in Her Majesty and be exercised in her name and for the purposes of this Act India shall mean the territories vested in Her Majesty by virtue of any such rights as aforesaid It is therefore clear that ever since the Statute of 1858 up to date the Government of India as constituted by the several Parliamentary Acts enacted from time to time have exercised all the rights which the East India Company under the treaties with the Indian States where they exist otherwise by sufferance [illegible] political practice acquired or possessed [illegible] them up to date

[illegible] States under the Government of India

225 As regards the relations of the Indian States have always been [illegible] by the Political Department of the Government of India That Department has always been a part of the regular [illegible] of the Government and since the superintendence direction and control of the Government of India is vested in the Governor General in Council it follows that any [illegible] the [illegible] of the Council must necessarily affect the Indian States But [illegible] under s 84 (A) (2) of the Government of India Act the enquiry to be made by the Statutory Commission [illegible] British India it is [illegible]

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[1] 5 & 6 Geo V Ch 61 and 62

that the Commission cannot go into the questi [illegible] ship of the Indian States with the Government [illegible] the Governor General in Council when acting in [illegible] In other words, the Governor General in Council [illegible] the dual function first of governing British India [illegible] of managing the relations with the Indian States [illegible] duality of functions is nowhere [illegible] in the Parl[illegible] Act which deals with British India nor would it be [illegible] with legitimate construction of the Statutes to [illegible] a dual personality or functions We there[illegible] we have recommended the reconstitution of the G[illegible] India we shall be within our rights if we take up the [illegible] ship of such *Government* with the Indian St[illegible] As [illegible] shall presently show, *this is in any case inevitable*

226 In order to understand the [illegible] the [illegible] future in relation to [illegible] the Montagu [illegible] the subject occupies a separate chapter[1] which contains the following concrete recommendations —

(1) That some of the states were hitherto in political relations with local governments and others with the Government of India as a general principle those which are important should be placed in direct political relations with the Central Government[2]

(2) This recommendation was supported for the reason "that relations with the native states should not be matters of provincial concern in the sense that they are intended ever to be transferred to the control of the legislative council

(3) They next recommended the institution of two bodies the Chamber of Princes and the Indian Privy Council to advise the Viceroy on questions of policy including that affecting the two halves of India They pointed out that the question of status of the Indian Princes as independent rulers within their own domain could not be decided only by reference to their treaties but also usage and precedent which "may be exercising a levelling and corroding influence upon the treaty rights of individual states"[4] They therefore recommended an examination of the question "not necessarily with a view to any change of policy but in order to simplify standardise and codify existing practice for the future"[5]

227 But since both the functions of the Chamber of Princes and the Indian Privy Council were merely advisory, they could not settle disputes "which may arise between two or more states or between a state and a local government or the Government of India and with a situation caused when a state

1 Report Ch X, §§ 296 312
2 Ib § 310
3 Ib § 310
4 Ib § 304
5 Ib § 303

III

THE INDIAN STATES

The Indian States

223 Under Section 33 of the Government of India Act "the superintendence direction and control of the Civil and Military Government of India is vested in the Governor General in Council who is required to pay due obedience to all such orders as he may receive from the Secretary of State"

Within the terms of reference

224 By Section 124 of the Amending Act[1] the word 'India' as used in Sections I and II of the Government of India Act includes not only British India but also "any territories of any native Prince or Chief under the suzerainty of His Majesty exercised through the Governor General of India or through any Governor or Officer subordinate to the Governor General of India' References to "India' as distinct from "British India' occur in several sections of the Government of India Act In s 20 (3) of the Act 'the revenues of India are defined to include the tributes paid by the Indian States and under s 67 (2) (*d*) it is not competent to the Indian Legislature without the previous sanction of the Governor General to introduce a measure affecting "the relation of the Government with foreign Princes or States" It is further provided *inter alia* by s I of the Government of India Act 1858 that "all powers in relation to Government vested in or exercised by the East India Company and all rights vested in it which if this Act had not been passed might have been exercised by the said Company in relation to any territories shall become vested in Her Majesty and be exercised in her name and for the purposes of this Act India shall mean the territories vested in Her Majesty by virtue of any such rights as aforesaid" It is therefore clear that ever since the Statute of 1858 up to date the Government of India as constituted by the several Parliamentary Acts enacted from time to time have exercised all the rights which the East India Company under the treaties with the Indian States where they exist otherwise by sufferance usage and political practice acquired or possessed, and continue to exercise them up to date

Indian States under the Government of India

225 As such the relations of the Indian States have always been managed by the Political Department of the Government of India That Department has always been a part of the regular machinery of that Government and since the superintendence direction and control of the Government of India is vested in the Governor General in Council it follows that any change made in the constitution of that Council must necessarily affect the Indian States But since under s 84 (A) (2) of the Government of India Act the enquiry to be made by the Statutory Commission is limited to British India it is possible to argue

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[1] 52 & 53 Vict Ch. 60 and 63

that the Commission cannot go into the question of the relationship of the Indian States with the Government of India or with the Governor General in Council when acting in relation to them In other words the Governor General in Council is charged with the dual function *first* of governing British India and *secondly* of managing the relations with the Indian States But this duality of functions is nowhere adumbrated in the Parliamentary Act which deals with British India nor would it be in consonance with legitimate construction of the Statutes to assign to a body a dual personality or functions *We therefore think that as we have recommended the reconstitution of the Government of India we shall be within our rights if we take up the relationship of such Government with the Indian States* And as we shall presently show this is in any case inevitable

226 In order to understand the problems that arise out of the position of the Indian States and their future in relation to reformed India we may take as our starting point the Montagu Report in which the subject occupies a separate chapter[1] which contains the following concrete recommendations — Montagu Report and the States

(1) That some of the states were hitherto in political relations with local governments and others with the Government of India as a general principle those which are important should be placed in direct political relations with the Central Government [2]

(2) This recommendation was supported for the reason "that relations with the native states should not be matters of provincial concern in the sense that they are intended ever to be transferred to the control of the legislative council [3]

(3) They next recommended the institution of two bodies the Chamber of Princes and the Indian Privy Council to advise the Viceroy on questions of policy including that affecting the two halves of India They pointed out that the question of status of the Indian Princes as independent rulers within their own domain could not be decided only by reference to their treaties but also usage and precedent which "may be exercising [illegible] corroding influence upon the treaty rights of individual states" [4] They therefore recomm[illegible] the question "not necessarily with a view to [illegible] of policy but in order to simplify [illegible] existing practice for the future" [5]

227 But since both the functions of [illegible] Princes and the Indian Privy Council were [illegible] could not settle disputes "which may arise [illegible] more states or between a state and a local [illegible] Government of India and with a situation ca[illegible]

1 Report Ch X
2 Ib § 310
[3] §§ 296 312
4 Ib § 304
[illegible]

s dissatisfied with the ruling of a Government of India or the advice of any of its local representatives " In such cases there exists at the present moment no satisfactory method of obtaining an exhaustive and judicial enquiry into the issues such as might satisfy the States particularly in cases where the Government of India itself is involved that the issues have been considered in an independent and impartial manner Where ever therefore in such cases the Viceroy felt that such an enquiry was desirable we recommend that he should appoint a commission on which both parties would be represented to enquire into the matter in dispute and to report its conclusions to him If the Viceroy were unable to accept the finding the matter would be referred for decision by the Secretary of State The Commission that we have in mind would be composed of a judicial officer of rank not lower than a High Court Judge and one nominee of each of the parties concerned[1] These were tentative and transitory suggestions pending the growth of further responsibility in British India when the authors hoped that the Indian States and British India might be brought into more direct relation in a system which might present " the external semblance of some form of federation "[2] The first two of these recommendations affect only the states of the Princes with which British India is not directly concerned But the remaining recommendations directly affect the relationship between the two halves of India which must be reckoned with The authors of the reforms themselves recognise that with the expansion of reforms in the Government of India the relationship between the Indian States and British India would grow into an acute problem But as they had contemplated but not actually recommended the transfer of any measure of responsibility to the Central Government their scheme necessarily left out the examination which should bring into play a new order

228 They, however recommended certain changes and indicated others which in their view would be sufficient for the transitory period which alone they had in mind for the functioning of the reformed government they proposed to create But at the same time they were not slow to peer into the future of British India ' Looking ahead to the future " they wrote

we can picture India to ourselves only as presenting the external semblance of some form of ' federation ' The provinces will become ultimately self governing units held together by the Central Government which will deal solely with matters of common concern to all of them But the matters common to the British provinces are also to a great extent those in which the Native States are interested—defence tariffs exchange opium salt railways and post and telegraphs The gradual concentration of the Government of India upon such matters will

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1 *Ib* § 308 2 *Ib* § 300

therefore make it easier for the States while retaining the autonomy which they cherish in internal matters, to enter into closer association with the Central Government if they wish to do so But though we have no hesitation in forecasting such a development as possible the last thing that we desire is to attempt to force the pace Influences are at work which need no artificial stimulation All that we need or can do is to open the door to the natural developments of the future' [1]

229 The door was opened in two recommendations, one of which was effective while the other remained dormant, though this was their main recommendation if one may judge from the context and the precedence allotted to it in the report For in the very next paragraph the report suggests the establishment of a Privy Council for India It is pointed out that Lord Lytton had made a similar proposal though it had resulted in an abortive and still born creation of a body known as "Councillors of the Empress", other Viceroys had ventured in the same field but the authors of the report considered the time then opportune for the establishment of a Privy Council "From time to time," they observed, "prospects of this kind have been mooted and laid aside, but with the changed conditions we believe that such a body would serve a valuable purpose and do useful work The Privy Council s Office would be to advise the Governor General when he saw fit to consult it on questions of policy and administration' [2]

Proposal for a Privy Council

230 It will be observed that under Section 67 of the Government of India Act not only the relations of the Government with foreign Princes or States but two other important matters, namely (1) the religion or religious rites and usages of the people and (2) the discipline and maintenance of the Army, Navy and Air Forces are excluded from the cognizance of the Indian Legislature In all these respects the Governor General is technically vested with sole authority subject only to the direct control of the Secretary of State and the shadowy control of the British Parliament Under the reforms as theretofore the autocratic authority of the Governor General remained, but while the Indian Legislatures received a substantial accession of elected strength no link was established between them and the Indian States for the discussion much less settlement of fiscal and administrative questions in which the action of the Indian Legislature might have repercussion in the Indian States Indeed the other recommendation of the Montagu Report given effect to in the installation of a Chamber of Princes had in some respects even a detrimental effect upon the course of events in British India, as for instance the enactment of the Princes' Protection Act, which the Legislative Assembly had thrown out but which Lord Reading had to certify because he stood committed to a promise made to the Chamber of Princes long before he had any opportunity of consulting the Legislatures, and he had no other popular

Defects of the Chamber of Princes

1 Ib § 300

2 Ib § 287

body of men who could have apprised him of the view of British India. Another similar measure intending to amend the Code of Criminal Procedure and the Indian Evidence Act legalising the prosecution of a witness examined in British India on a commission issued by an Indian States Court though passed in the Council of State had to be withdrawn from the Legislative Assembly when one of us had pointed out that it was *ultra vires* of the Indian Legislature to enact a law legalising the trial of a British subject for an offence committed with reference to a British enactment in British territory in an Indian State where *British enactments had no force*.

231. These and other questions including those specifically mentioned in the Montagu Report admit of no solution by any constituted authority in which the two Indias are represented and the establishment of the Chamber of Princes in accordance with its second recommendation has added to rather than alleviated the difficulties since as a piece of machinery it remains un-coordinated with the institutions of British India. For according to the report the Chamber of Princes was brought into being to advise the Viceroy upon "questions which affect the States generally and other questions which are of concern either to the Empire as a whole or to British India and the States in common upon which" the authors added "we conceive the opinion of such a body would be of the utmost value. The Viceroy would refer such questions to the Council (i.e. the Council of Princes) and we should have the advantage of their considered opinion."[1]

232. In other words the Chamber of Princes which was solely representative of the Indian States was to advise the Viceroy on the solution of problems affecting not only the Indian States but British India as well. This was an inherent defect of the scheme which has already borne the bitter fruit from which India has been a sufferer and may conceivably be a still greater sufferer in the future. Meanwhile the Indian Princes are themselves not satisfied with the machinery set up *for their consultation* for though the Chamber may advise it can only do so in matters upon which its advice is sought. It has no initiative of its own.

Indian States Committee

233. We have already shown that a decisive step in the direction of responsibility of the Central Government necessarily *brings into the forefront the relationship of the Indian States* towards the Reformed Central Government in British India. Following on the hint thrown out in the Montagu Report and in partial and half hearted compliance with the repeated requests of the Princes a committee presided over by Sir Harcourt Butler *was appointed*.

The Report of this Committee deals with two main heads:—

(a) The Relationship between the Paramount Power and the Indian States.

(b) The financial relations between the States and British *India*.

[1] Report § 306

As to the first, the findings of the Committee are as follows —

(1) That the States have no independent sovereignty, and only a quasi international status [1]

(2) That sovereignty is divided between the Crown and the States so that the States possess *a measure of internal* sovereignty limited by the terms of their treaties where such exist modified by what is vaguely termed political practice [2]

(3) That the treaties are with the Crown whose Agent is the Secretary of State for India and the Governor General in Council responsible to the Parliament of Great Britain [3]

(4) That the treaties are binding and secure to those Princes who have them—

(*a*) Security against external aggression and internal disorder [4]

(*b*) The rights guaranteed by the treaty itself [5]

But while the Committee regard the treaties as binding upon the States, it proceeds to introduce an element of confusion by asserting, in another passage, that the treaties hold good only to the extent they are not modified or varied by political practice necessitated by changing circumstances [6]

Apart from treaties and independently of them the Committee believes the Paramount power possesses the inherent right of intervention,—

(*a*) For the benefit of the Prince [7]

(*b*) For the benefit of the State [8]

(*c*) For the benefit of India as a whole—that is British India *plus* the Indian States [9]

The duty of the Paramount Power to protect the States is subject to their obligation to observe the treaty provisions—in short subject to good government [10]

234 Apart from good *government if the people of a State* demand reforms in the State Government it is the duty of the Paramount Power "to suggest such measures as would satisfy this demand without eliminating the Prince" [11] States subjects view point

In this connection it *may* be noticed that on the request of the Chancellor of the Chamber of Princes, H E Lord Irwin personally drew up *a short* time ago, a note upon the principles of good administration On the basis of this note, H H the Maharaja of *Bikaner* moved a resolution, which the Chamber

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1 Ind an States Committee's Report, §§ 57, 44
2 *Ib* § 44
3 *Ib* § 39
4 *Ib* § 38
5 *Ib* §§ 39, 18, 19
6 *Ib* §§ 40 47
7 *Ib* § 52
8 *Ib* § 53
9 *Ib* § 55
10 § 49 and Lord Reading's letter to the Nizam (printed as App II of the Report 5)
11 *Ib* § 50

accepted urging that in those States where such conditions did not already exist—

(a) The Princes should have a fixed privy purse

(b) There should be security in the public services, and

(c) There should be an independent judiciary

That the Paramount Power has unquestionably the right of intervention in the internal machinery of a State for the benefit of India as a whole may arouse controversy but the proposition flows from the Committee s conception of paramountcy, since the paramount power may interfere with a state on international grounds or because it is necessary for national defence [1] and a fortiori its own security

235 Lastly the Report concludes by recommending that the Princes should not be transferred without their agreement to a relationship with a new government in British India responsible to an Indian Legislature

The authors however say that the change ' would raise questions of law and policy which we cannot now and here fore shadow in detail " They have however indicated that the question of their federation is at present wholly premature " [2]

The rest of their recommendations which would arouse still further controversy are as follows —

(a) That the Viceroy, and not the Governor General in Council for the present should be the agent of the Crown, for the adjustment of financial and economic questions arising between British India and Indian States

(b) That the political department should be separately recruited directly in England

(c) That disputes between British India and the States should be referred to *ad hoc* Committees but the ultimate decision should rest with the Secretary of State

This Report was the subject of consideration by the Princes at their informal conference held in Bombay on the 27th June 1929 when in a series of Resolutions they expressed their views which in effect accepted the finding given in accordance with their contention that their treaties are with the Crown and accepted that the Viceroy should in future represent the Crown in India in relation to them But they regretted the failure of the Committee—and this is a vital criticism—to draw a dividing line between the sovereignty of the Crown and the sovereignty of the State in such fashion that either party could determine exactly what its rights are in any given case they disputed the right of the Paramount Power to interfere contrary to the provisions of the Treaties they deplored the failure of the Committee to provide an impartial tribunal to adjudicate disputes between the two sides of India and its failure to suggest means for bringing the Indian States and British India into effective co operation

1 Ib § 5 2 Ib § 58

236 The views of the people of the States have never been ascertained But an organisation which claims to speak for them, and expresses views which generally coincide with those of the people of British India, does not controvert their findings but disapprove of the recommendations which, it fears, are not only reactionary but may produce a conflict in the same person acting as Viceroy and the Governor General in Council And apart from the conflict there is a feeling that the centralization of so much power in a single individual and the complete isolation of not only *the Viceroy* but the entire Political Department directly recruited from England is undesirable Both the Princes Popular view of the States

the appointments of *ad hoc*
while they are equally averse
an executive officer such as
her hand, what the Princes

demand is more *certainty* in the constitution and an impartial, judicial, non executive *machinery* for the settling of their disputes The States people probably want the same, though they would shift the centre of gravity to their own side The organisation referred to demands that in addition to the three reforms *suggested by* Lord Irwin the Princes should modernize their machinery of Government by the establishment of representative assemblies

237 Some States have already parted with some of their autocratic power in favour of Councils which follow the models of British India, but the complaint of those who are not satisfied with these bodies is that they are mere make believes—specious in appearance but with no perceptible reality in them Whatever may be their character it is not for us to comment on the internal autonomy of the States But what we are really concerned with is the position of Reformed British India vis-a-vis the States Apart from their resolutions passed at an Informal Conference to which a reference has already been made, the States have not so far made any considered official pronouncement on their combined attitude but judging from the comments in the press Indian ... would resolutely oppose any retrograde step in the direc ... to the

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... includes three Indian members the ... plete withdrawal of that control casting on the Viceroy the sole responsibility of making it may be at times momentous decisions which might affect and even endanger the peace and progress of India

238 We think that it is too late in the day to restore benevolent despotism which may at times clog the entire machinery of the Government and would be a constant source of anxiety and Restoration of despotism deprecated.

accepted urging that in those States where such conditions did not already exist—

(a) The Princes should have a fixed privy purse

(b) There should be security in the public services and

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[1] *Ib* § 5 [2] *Ib* § 59 [3] *Ib* § 66

Even assuming that [illegible] still persisted [illegible] titled to consult any person [illegible] functions to him. In [illegible] Butler Report emphasises [illegible] Indian States are with [illegible] G[illegible] General in Council. The [illegible] being accredited agents of the [illegible] without their consent [illegible] transference of ultimate control from [illegible] Parliament.

241 This raises the other larger [illegible] Parliament of Great Britain [illegible] authority and power to other Parliaments [illegible]. That it has undoubtedly power is amply [illegible] by the existence of the Dominion Parliaments [illegible] at the recent Imperial Conference [illegible] their own sphere. This [illegible] discussed in the second [illegible] the authors of the Montagu[1] Report [illegible] advert to this aspect of [illegible] thing of that kind in their minds when they [illegible] the establishment of a Privy Council in India. The [illegible] means an easy one but reference [illegible] in the ensuing discussion where the [illegible] States and the reformed British India will have to be considered. For the present it seems clear that we [illegible] clear of the Indian States because the Indian States themselves have raised several questions which vitally affect the revenue and development of British India and [illegible] near future failing the provision of adequate machinery for adjustment bring the two into direct conflict. Indeed the Indian States are already pressing for a satisfactory settlement in respect of the maritime customs, the income tax, income from railways, mints and coinage, posts and telegraph and the profits of the saving bank, from opium and excise and other miscellaneous sources of revenue and general administration of British India. The Butler Report has no doubt suggested means for dealing with some of these questions but it is too early to state how far their solutions would be acceptable to the Indian States and even if accepted by them how far they would be in consonance with the interest of British India. One fact is clear that if the Governor General in Council now responsible [illegible] British Parliament is made responsible to the In[illegible] would affect the Indian States in th[illegible] Committee have defined the pow[illegible] proposals contemplate the transf[illegible] not evade the discussion of the [illegible] Indian Parliament with the In[illegible]

Privy Council [illegible]

[1] Montagu

apprehension both to the Indian Cabinet as to the States Durbars Mr Montagu forecasted the growth of federations, and if this is still premature we do not see what objection there can be to the creation of a Privy Council to advise the Viceroy in such matters and on which besides the members and ministers of his Council there should be scope for the representation of both the Indian legislatures

View on the Paramountcy

239 The Butler Committee have made their own pronouncement regarding the elucidation of the vexed question upon which the Government of India and the Indian Princes have been at variance It was the contention of the Indian Princes that being in treaty with the Crown the Government of India was not the proper authority to settle disputes or decide questions arising between themselves and the Paramount Power In other words, the Indian States question the ultimate authority of the Government of India The question was distinctly raised in one form and rejected by Lord Reading with the concurrence of the then Secretary of State on the subject of Berar The decision of the Viceroy dated March 27th 1928, made with the concurrence of the Secretary of State, will be found printed as Appendix 2 of the Butler Committee's Report with which that committee is in entire agreement Passing in review the several cases that had previously raised the same question though in one place the Committee observe that it is impossible to define paramountcy,[1] in another place they say —

> "The Paramount Power means the Crown acting through the Secretary of State for India and the Governor General in Council who are responsible to the Parliament of Great Britain Until 1835 the East India Company acted as trustees of and agents for the Crown but the Crown was through the Company the Paramount Power The Act of 1858 which put an end to the administration of the Company, did not give the Crown any new powers which it had not previously possessed It merely changed the machinery through which the Crown exercised its powers"[2]

In this view the Crown being then Paramount it has acted in relation to the Indian States through the Secretary of State for India and the Governor General in Council who are responsible to the Government of Great Britain In other words these bodies are accredited agents of the Crown in relation to the Indian States

240 Historically the Crown as such has no direct control over the Indian States Its power as such has long since passed to Parliament The Austinian notion of Sovereignty has long since been superseded by the modern conception which regards Sovereignty as divisible and Sovereign Rights distributable amongst the members of the State or amongst certain members thereof according to the constitution of the State concerned

1 Report § 57 2 Ib § 18, p 13

Even assuming that the mediaeval notion of Sovereignty had still persisted, it does not follow that the Sovereign is not entitled to consult any person it pleases or delegate some of its functions to him In either view the fact remains, and the Butler Report emphasises it that in practice the relations of the Indian States are with the Secretary of State and the Governor-General in Council The States may well claim that the former being accredited agents of the Crown the agency ought not, without their consent, be transferred or materially altered by the transference of ultimate control from the English to the Indian Parliament

241 This raises the other large question whether the Parliament of Great Britain is competent to transfer by its own authority and power to other Parliaments constituted by it

Scheme of a Privy Council

... sphere This question will have to be further discussed in the sequel for the present it is sufficient to state that the authors of the Montagu Report though they do not actually advert to this aspect of the question had nevertheless some thing of that kind in their minds when they advocated the establishment of a Privy Council in India[1] The question is by no means an easy one but reference to it can no longer be avoided in the ensuing discussion where the inter relation of the Indian States and the reformed British India will have to be considered For the present it seems clear that we cannot steer clear of the Indian States because the Indian States themselves have raised several questions which vitally affect the revenue and development of British India and might in the near future failing the provision of adequate machinery for adjustment bring the two into direct conflict Indeed the Indian States are already pressing for a satisfactory settlement in respect of the maritime customs the income tax income from railways mints and coinage posts and telegraph and the profits of the saving bank from opium and excise and other miscellaneous sources of revenue and general administration of British India The Butler Report has no doubt suggested means for dealing with some of these questions but it is too early to state how far ... acceptable to the Indian States and t ... be in consonance t ... clear that if the ... to the British ... an Parliament it ... which the Butler would affect ... have defined the power of the Crown and as our Committee have defined the power of the Crown and as our proposals contemplate the transference of such power we can not evade the discussion of the question of the relation of the Indian Parliament with the Indian States

[1] Montagu Report § 287

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[1] Report § 5-

[2] Ib § 18, p 13

Even a suming that the mediaeval notion of Sov reignty had still persisted it does not follow that th Sovereign is not en titled to consult any pers n it pleases or delegate some of its functions to him In either view the fact remains and the Butler Report emphasises it that in practice the relations of the Indian States are with th S cretary of State and the Governor General in Council The States may well claim that the former being accredited a ents of the Crown the agency ought not, without their consent be transferred or materially altered by the transference of ultimate control from the English to the Indian Parliament

241 This raises the other large question whether the Par liament of Great Britain is competent to transfer by its own authority and power to other Parliaments constituted by it That it has undoubtedly power is amply demonstrated by the existence of the Dominion Parliaments which have been declared at the recent Imperial Conference as Sovereign bodies within their own sphere This question will have to be further dis cussed in the sequel for the present it is sufficient to state that the authors of the Montagu Report though they do not actually advert to this aspect of the question had nevertheless some thing of that kind in their minds when they advocated the estab lishment of a Privy Council in India [1] The question is by no means an easy one but reference to it can no longer be avoided in the ensuing discussion where the inter relation of the Indian States and the reformed British India will have to be con sidered For the present it seems clear that we cannot steer clear of [illegible] mselves have ra[illegible] revenue and deve[illegible] future failing t[illegible] istment bring the two into direct conflict Indeed the Indian States are already pressing for a satisfactory settlement in respect of the maritime customs the income tax income from railways mints and coinage posts and telegraph and the profits of the saving bank from opium and excise and other miscellaneous sources of revenue and general administration of British India The Butler Report has no doubt suggested means for dealing [illegible] ite how far States and consonance that if the the British rliament it the Butler would a[illegible] Committee have defined the power of the Crown and as our proposals contemplate the transference of such power we can not evade the discussion of the question of the relation of the Indian Parliament with the Indian States

Schemo of a Privy Council

[1] Montagu Report § 287

apprehension both to the Indian Cabinet as to the St Durbars. Mr Montagu forecasted the growth of feder and if this is still premature we do not see what objection can be to the creation of a Privy Council to advise th V in such matters and on which besides the members and r of his Council there should be scope for the represen both the Indian legislatures

View on the Paramountcy

239 The Butler Committee have made their own ment regarding the elucidation of the vexed question the Government of India and the Indian Princ at variance It was the contention of the Indian being in treaty with the Crown the Government not the proper authority to settle disputes or a arising between themselves and the Par In other words, the Indian States question the rity of the Government of India The questi raised in one form and rejected by Lord Rea currence of the then Secretary of State on th The decision of the Viceroy dated March with the concurrence of the Secretary of S printed as Appendix 2 of the Butler Comm which that committee is in entire agreement the several cases that had previously rai though in one place the Committee observe to define paramountcy,[1] in another place t

> "The Paramount Power means th the Secretary of State for India and in Council who are responsible to Britain Until 1835 the East Ind tees of and agents for the C through the Company the Param 1858 which put an end to th pany did not give the Crown had not previously po machinery through which th

In this view the Crown bein in relation to the Indian State for India and the Governor G sible to the Government of Gr bodies are accredited agents of Indian States

240 Historically the Crown n the Indian States Its power Parliament The Austinian since been superseded by the Sovereignty as divisible and S amongst the members of the Stat thereof according to the const

[1] Report § 57

The establishment of a Privy Council for India has therefore a strong historic background, and, as already observed, Mr Montagu in his Report recommends the establishment of a Privy Council for India in two places[1]

247 In his chapter on the Indian States Mr Montagu foresaw the federation of British India with the Indian States[2] He then referred to the desire "to give greater reality to the consciousness of common interests" as stirring among the Princes which he proposed to do by the establishment of an Indian Privy Council That there has long been a growing desire on the part of the Indian Princes for the creation of an agency through which their collective views whether affecting their States or their interests might be made known to the Government of India and brought into harmony with the interests of the country as a whole admits of no doubt, and Mr Montagu recommended the institution of the Council of Princes and of a Privy Council as the two media which might be usefully employed for consultation upon "questions which affect the States generally and other questions which are of concern either to the Empire as a whole or to British India and the States in common" Holding that the federation of the States into a united India was not immediately possible he at any rate paved the way for future federation by recommending the establishment of a Chamber of Princes and the institution of a Privy Council adding "that when a Council of Princes has been established and when a Council of State and a Privy Council have been created the machinery will exist for bringing the senatorial institutions of British India into closer relations when necessary with the Rulers of the Native States"[4]

248 In an earlier paragraph he had written on the same subjects as follows We have a further recommendation to make We would ask that His Majesty may be graciously pleased to approve the institution of a Privy Council for India From time to time projects of this kind have been mooted and ... changed conditions we believe that such a
kind ... India
body ... the pride
for ... that it
and affection to
can respect and admire[5]

249 In the first Legislative Assembly one of us pointed out the necessity of such a Council to advise the Viceroy upon matters excepted from the jurisdiction of the Indian Legislature The Government were not opposed to the establishment of a Privy Council but unfortunately the members of the Legislative Assembly failed to realize its importance and, indeed, could not visualise the full effect of the proposal which was then made, and the proposal was therefore rejected

1 Report §§ 287, 301
2 Ib §§ 296 312
3 Ib § 300
4 Ib § 311
5 Ib § 287

Mr Montagu's recommendation

250 But the time which Mr Montagu foresaw for the federation of India has been brought much closer by the minds of both Indias being stirred by the approach of new reforms The Indian Princes have made claims which if pressed might paralyse the revenues of British India if refused, their grievance remains The Butler Committee have themselves suggested the formation of *ad hoc* committees to decide such questions, but since the function of such committees would be merely advisory, the ultimate decision resting with the Secretary of State it follows that the recommendation if accepted, would seriously encroach on the financial autonomy of India, and seriously retard its political progress The recommendation is itself conditioned on the present constitution any further development of which along the line of responsibility must necessarily involve a solution of these questions more appropriate to the new constitution Now under the constitution as we have recommended we have excepted for the time being such subjects as are mentioned in section 67 *(c)* *(d)*, *i e* "the relations of the Government with foreign Princes or States and the discipline or maintenance of the Army At present these subjects are under the control of the Executive not responsible to the Legislature But with the practical substitution for this Executive of a Ministry responsible to the Legislative Assembly the "Governor General in Council" as now existing would be transformed into a different government If then the two subjects still continue reserved a new machinery must be set up to assist the Governor General in the Reserved field He cannot act with the advice of a council in which the majority of his Councillors would be Ministers for, if he did so there would be no sense in reserving those subjects Nor can he act alone without any constituted authority to advise him for it would amount to a centralization of power for which there is no precedent even in India He must, therefore, have advisers, and such advisers would be formed in a Privy Council which would advise the Governor General in all matters for the time being treated as Reserved

251 The establishment of a Privy Council will with one stroke, settle the vexed question of relationship between British *India and the Indian States It will be the arbiter between the* two contending bodies It will be the counsellor in all matters in which the Viceroy takes at present single and secret decisions It will inspire the people of India with the confidence that the Privy Council is the only temporary custodian of their eventual rights, and if the constitution of the Privy Council is based upon a popular basis it will give them a direct interest in it equal to that possessed by the Indian States

252 If the principle of a Privy Council is accepted its constitution might be somewhat on the following lines — Assume that the Privy Council consists of 30 members One third of them might be elected by the Legislature Central

or Provincial or both, one third elected by the Indian States, and the remaining third nominated by the Viceroy All rules must be framed under the revised Government of India Act The powers and functions of the Privy Council should be set out This should safeguard the interest of the Indian Legislature by providing against its interference by the Privy Council on the one hand, and by the Indian States in matters affecting only British India on the other, while the Privy Council should strictly limit itself to the decision of questions which are reserved or in which the mutual interests of British India and those Indian States call for a decision

253 In other words the Privy Council will not interfere with the powers of the Indian Legislature, it will only advise upon matters excepted for the time being from the cognisance of the Indian Legislature And then only the British Indian section of the Privy Council may be called upon to advise the Viceroy upon matters affecting British India, while the whole Privy Council may have to decide questions affecting both British and feudatory India

Privy Council supplements the *Legislature*

In other words, the Privy Council would function in the following cases and to the following extent —

(*a*) Where the matter affects British India, but is excepted from the purview of the Legislature, in that case only 20 out of the 30 members representative of British India will ordinarily take part

(*b*) If it affects both British India and the Indian States then all the 30 members will take part

(*c*) But if it only affects the domestic policy of Princely India then the British Indian elected section would not ordinarily take part

The Privy Council should be acceptable to the Indian States and would be in conformity with the modified recommendation of the Butler Committee

V

A Supreme Court for India

254 The question of a Supreme Court for India has, so far as the British Government are concerned, been set at rest by a declaration made at the Imperial Conference of 1923, at which the following statement was made "Another matter which we discussed in which a general *constitutional principle* was raised concerned the conditions governing appeals from judgments in the Dominions to the Judicial Committee of the Privy Council From these discussions it became clear that it was no part of the policy of His Majesty's Government in Great Britain that questions affecting judicial appeals should be determined otherwise than in accordance with the wishes of the part of the Empire primarily affected It was however generally recognised that, where changes in the existing system were proposed which

Proposal for an Imperial Court

while primarily affecting one part raised issues in which other parts were also concerned such changes ought only to be carried out after consultation and discussion So far as the work of the committee was concerned this general understanding expressed all that was required

255 As is well known at the Imperial Conference of 1918 a proposal was made to symbolise the unity of the British Empire by the establishment of an Imperial Court of Appeal[1] But that proposal raised a storm of protest from the three Colonies which had established a Supreme Court of their own and since then the few cases reserved for decision of that body have not tended to heighten its prestige in the Colonies Mr B O Brien in his work on the *Irish Constitution* writes It has irritated public opinion in all of them South Africa has practically abolished the Appeal altogether Australia where all constitutional questions have been withdrawn from the Judicial Committee has gone a long way to get rid of it and Canada too *with the exception of the province of Quebec has to quote Sir* Robert Borden had just about enough of Appeal Courts Professor Keith in his *Responsible Government*[2] says

It is idle to deny that the taking of appeals to the Privy Council is a mark of inferior status and partial servitude '
T
to beg the King to do him
are refused to him fur
gether the Empire is one
calculated to stamp the Dominion Courts as inferior and vicious while in practice it means that wealthy litigants have a very unfair advantage over poor suitors

Professor Keith does not consider that the judicial committee has justified itself by its decisions He says that on the whole the Privy Council is not quite so effective a court as the House of Lords [4] He then passes in review the several dominion appeals in which it is said to have gone wrong and in some places to have given conflicting decisions

Indian view on a Supreme Court

256 A recommendation for the establishment of a Supreme Court for India now finds part in almost every scheme of Reforms of which published records are available Such recommendation occurs in the Nehru Report[5] and is embodied in a resolution of the Moslem League and in the Memorandum of the European Association and of the Associated Chambers of Commerce The scheme of the Indian Princes involves the establishment of such a tribunal while the fact that all the major colonies of England such as Canada Australia and South Africa have had the scheme for the establishment of a Supreme Court embodied as a part of their constitution affords a sufficient background in historical precedents in its favour

[1] Resolution No 22 Conference Proceedings p 8 — [2] pp 110 120
2nd Vol (2nd ed) p 1102 — [4] *Ib* p 1104
[5] A 46 7 pp 112 113

257. The agitation for the establishment of such a Court in dia was started in the first Assembly, when a Resolution was ade to that effect [1] The Government promised to sound public inions thereon, which they did with the result that the pro-sal was supported by a strong body of public opinion, though, as ight well have been expected a considerable body of opinion nsidered the proposal premature or inopportune, while a small dy opposed it on principle holding that the nerve centre of the mpire must remain at the head of the Empire

The arguments *pro* and *con* have been the subject of several bates in the Legislative Assembly and two debates in the ouncil of State [2] It is apparent from a perusal of these discus ons and the printed copy of opinions on the subject given en ie invitation of the Government of India that the establish-ient of the Supreme Court is pressed on the ground of both ecessity and general convenience

258 The necessity arises from the fact that under the present onstitution of the Government of India all matters in dispute etween the Executive and the Legislature are left to be decided y the Executive In the absence of an impartial tribunal pos essed of authority over the whole of India this was the only ourse possible much in the same way that the ultimate decision etween an Indian Prince and his subjects is at present left to he decision of the Prince In a rude age the State being the ulti-nate authority it was only natural that the State which had the equisite force at its command should be left free to be the final rbiter in his own dispute But with the devolution of sovereign authority and its transfer to other heads it is no longer possible to maintain that a party whatever his *status* should be a judge in his own case , and with the creation of provincial autonomy and a stricter definition of the authority of the Provincial and Central and com plexity partial tri bunal o here such question interpre tation of a constitution we have no means at present for obtaining an authoritative decision The Supreme Court is ordinarily Its necessity.

ceivable in which references on points of law can be made to the ants much as references on points of law can be made to the Privy Council under Section 4 of the Privy Council Act

1 Resolution dated 26th March 1921 (Assembly Debates pp 1606 1615)

2 See Assembly Debates dated 26th March 1927, et seq , Council of State Debates dated 31st August, 1927

259 Such a Court if established will supply a serious *lacuna* at present existing in the administration of criminal justice in India With the amendment of the Code of Criminal Procedure Code in 1923, appeals against acquittals in Session cases are now appealable to the High Court but should the High Court convict, the convicted person has then no right of appeal Even in cases of conviction in Sessions trial involving confirmation of the sentence of death, the final judgment or order is that passed by the High Court and yet there is no provision entitling the condemned to appeal for his life

Shortcomings of the Industrial Committee

260 In recent years such persons have made desperate attempts to move the Privy Council, but that body has set its face against such appeals holding it not entitled to carry on the work of a Court of criminal appeal for India and that they would only intervene within the narrow limits prescribed by them in *Dillet's* case, that is to say, in cases *not* in which an erroneous finding is given or in which there has been a failure of justice, but only *in those which involve the violation* of some principle of public justice That in the ordinary cases of such convictions there may be an appeal in England is now placed beyond controversy by the establishment of a Court of Criminal Appeal, *1907* It was a *lacuna* in the English law and it would seem copied in India but while the English law has been amended the Indian law remains unamended for want of a court to administer it

261 We consider that no time should be lost in establishing a Central Court of Criminal Appeal—the more so because the administration of criminal justice in certain provinces still remains entrusted to courts inferior in personnel and status to the High Court

Then again in civil cases there are a large number of cases which from their very nature cannot be the subject of adequate decisions For example, the Judicial Committee of the Privy Council have themselves referred to cases arising under the Land Acquisition Act cases of mesne profits and those involving the valuation of property in all of which they have confessed their inability to be the final judges

In other cases such as appeals arising under the Indian Divorce Act (which expressly provides for an appeal to the Privy Council) and the Income Tax Act an appeal to that Committee is a far cry both because of the expense and delay, and those are the very cases where justice delayed is justice denied to the needy litigant

262 There is then the undeniable argument in making India self contained and bringing her as far as it may be in a line with the other self governing Dominions of the British Commonwealth

[illegible] the *Privy*

expense is

an appeal

hich in fact he cannot make The visualization of justice the parties concerned tends to beget confidence This is ot possible in the case of a court sitting 6,000 miles away.

In India the Statute and case law have grown to dimensions which makes a thorough mastery of it a life study and law can est be administered by those who live on the spot The habits and customs of the people differ from those of the West, and it is only fair that a court which is the ultimate court of appeal should not be stationed in another and distant land

The multiplication of courts in India and the conflict of sions between them creates uncertainty and is a pitfall the unwary The establishment of an all India Court would far to minimize the conflict which bewilders the lay litigant reduces the administration of justice to a more hazardous nterprise than it ought to be

263 We hope the establishment of such a court would tend raise the general level of judicial efficiency It may ensure larger measure of uniformity in the administration of justice, as we have recommended the centralization of the High Courts we think that the equipment of the judicial system ld not be complete without a court wielding ultimate hority Two objections have come to notice since the ques on was raised Its necessity was admitted, but it was suggested that such a court would not possess the independence which a distant court like the Privy Council free from the control of the Executive undoubtedly possesses But whatever may have been the apprehensions of our countrymen in the past ... from the ... should be ... far to re... apprehension Then it is contended that the introduction of communalism in the judiciary has already defiled the fount of justice and it runs the risk of a further pollution by that spirit of communalism being taken one step higher But the evil of communalism is we trust only a transitory phase of Indian life and even if it remained it has to be reckoned with and combated not less in a court to which only a couple of hundred cases would be taken, and which is a mere drop in the ocean compared to the vast mass of litigation which concentrates in the High Court Moreover, the responsibility of the judges of the Supreme Court would not be higher than that wielded by members of the Executive Council and in future to be transferred to the Ministers. Judges are like actors who have to play their part before a crowded House Their work is exposed to the scrutiny of the Bar and criticism of the Press—an advantage denied to the Judicial Committee who hear cases in empty courts and whose judgments arouse comments far from where they were pronounced and long after they have ceased to possess any interest to the layman

Value of a Supreme Court

264 We are convinced that India needs a Supreme Court and one must be established. We would however, suggest that it is well worthy of consideration whether the litigant should not be given the option whether to appeal to the local court or to the Judicial Committee in England. It should eliminate any objection of those who fear that a local Court may lack the independence of a distant tribunal. It may also be possible to attract some judges from England. But these are details which we do not regard as by any means essential to the completion of the judicial organisation of the country.

VI

THE HIGH COURTS

Uniformity of status recommended

265 We have decided that all High Courts exercising the same jurisdiction should as far as possible be equalized in status. The confidence which the public repose in its highest judiciary not only depends upon the quality of their work but also upon the dignity attaching to the office. The superior Courts in India fall into three grades all exercising similar jurisdiction while administering Civil and Criminal Law. In the first rank stand the chartered High Courts of which there are at present seven in India. Falling below them in status is a Chief Court of which there is one at Lucknow. The lowest in status of the High Courts are the two Courts of the Judicial Commissioners at Nagpur and Karachi. There was a proposal to raise both one degree higher but following the lead of the Nagpur Bar Association the local Council threw out the proposal holding that both provincial dignity and judicial necessity demanded the raising of that Court to a High Court. The proposal for the raising of the Sind Court *has been adopted by the Council but the delay in giving effect* to the measure is ascribed to financial stringency. The cases of the two sub provincial Courts at Lucknow and Karachi are exceptional. But there is no reason why the Court at Nagpur which is the final Court of Appeal for two combined Provinces should not be raised to that of a High Court.

The only objection apparent to us is that it would involve the raising of the pay of the Governor and the Executive Councillors. As our scheme eliminates the latter's posts the question is so far simplified. We think that all Courts exercising the same jurisdiction should as far as possible possess the same status and we recommend accordingly.

Removal of a limitation.

266 Another point which our Committee has unanimously decided is that there is no longer any need for reserving a *third of the judgeships in a High Court to members of the* Indian Civil Service who since the policy of provincialization are not employed in the same number to fill the posts of District and Sessions Judgeships from which the service judges are usually drawn.

The reservation of these judicial appointments to members of the Civil Service dates back to a period when the Indian Bar was in its infancy. It has since developed and multiplied and produced a large number of eminent lawyers. It would assist towards the maintenance of its high tradition and standard if the majority of Judgeships are reserved to members of that body. We have therefore *provided that at least two-thirds* of Judges of a High Court must be members of the Bar and out of these a third must be Barrister. The inclusion of this provision requires a word by way of an explanation. It must be clearly understood that the term "Barristers" is intended to apply to all Barristers both Indian and British. Their appointment to the Bench would be a source of strength, as Barristers nurtured in the freer atmosphere of the West, belonging as they do to an older Bar with a long and honourable tradition and a high standard of integrity and efficiency with a wider outlook would be an asset which must be maintained.

267 Under our recommendation not less than two thirds of the judges must be drawn from the Bar, while a remaining third are left free to be drawn from the services of the Bar alike.

Hitherto the Chief Justice of a High Court has always been a Barrister. As some doubt has been raised on the interpretation of Section 101 (4) of the Government of India Act we recommend that the ambiguity, if any, should be removed by legalizing the practice.

268 Having disposed of the constitution of the High Court and the composition of its Judges we next turn to our recommendation that all the High Courts should in future be placed under the Central Government. We have received weighty suggestions commending this course, and we think that it would not only be in accordance with the practice of other countries but conducive to their greater efficiency and independence if the courts which may have to decide questions affecting the local Governments or the local legislatures should ... f ... ther. At the ... ve have ... Courts ... ituated ... wholly free from its co ... xcept the Calcutta High Court are at present under the control *of the* local Government. The r cen tralisation

269 We think that the Central Government might well delegate its control in this respect to the Supreme Court the institution of which we regard as a matter of Imperial necessity. The delegation of such power will tend to make the judiciary more independent of the executive and whether that executive is bureaucratic or ministerial we think that the absolute independence of the judiciary must not only be safeguarded but placed beyond all question or *controversy*.

Y

VII

The Army in India

Cost of the Indian Army

270 The military burden on account of the Army in India has within the last two decades risen by alarming degrees The following table drawn from official statistics available to us gives at a glance its sudden rise since the Great War

Year	Military Expenditure		Remarks
	Gross	Net	
	£	£	
1910-11(*a*)	20 486 071	19 265 042	(*a*) Rupees converted into £ at Rs 15=£1
1911-12(*a*)	20 901 63	19 558 580	
1912-13(*a*)	20 953 100	19 565 466	
1913-14(*a*)	21 65 65	19 896 113	
1914-15(*a*)	21 809 603	20 434 915	
1915-16(*a*)	23 503 093	2 261 353	
1916-17(*a*)	26 566 757	24 993 811	
1917-18(*a*)	30 763 650	29 043 141	
1918-19(*a*)	46 830 10	41 480 238	
1919-20(*a*)	60 686 699	57 956 087	
	Rs	Rs	
1920-21(*b*)	88 23 24 251	81 75 37 319	(*b*) Sterling converted into rupees at £1=Rs 10 and adjusted for exchange
1921-22(*c*)	77 87 98 340	69 81 04 508	(*c*) Sterling converted into rupees at £1=Rs 10 and adjusted for exchange
1922-23(*c*)	71 00 58 9 5	65 26 80 090	
1923-24(*c*)	61 04 31 60	56 23 75 363	
1924-25(*c*)	59 66 54 877	55 63 40 218	
1925-26(*c*)	60 2 37 045	6 99 85 654	
1926-27(*c*)	60 91 63 859	55 96 95 835	
1927-28(*d*)	56 33 94 893	54 79 45 581	(*d*) Sterling converted into rupees at £1=Rs 13½
1928-29(*e*) (Revised Estimate)	58 46 44 000	55 10 00 000	(*e*) Sterling converted into rupees at £1=Rs 13½

271 In the Brussels Financial Conference to which India was a party it was pointed out that a country that expends more than 20 per cent of her revenue upon her Army is riding for a fall India s percentage even with the Provincial revenues taken into account is more than double of that ratio And according to the Indian critics the expenditure officially classed as such would have to be implemented by the addition of expenditure classed under other heads *e g* the strategic railways roads cantonments and frontier posts frontier armed constabulary wireless service hospitals and hill stations primarily maintained for the convenience of the British garrison and the like

But even eliminating all such charges which tend further to cripple India's resources the military expenditure so returned is sufficiently alarming to call for a thorough examination into its necessity

272 One of us was the author of a resolution adopted in the Assembly which covered this inquiry though its scope, as we shall presently show was necessarily limited It resulted in the appointment of a Committee presided over by Lord Inchcape and popularly known as the Inchcape Committee which recommended the gradual reduction of the military expenditure which had then exceeded 70 crores to 50 crores

273 The Committee had of course formulated their recommendation without going into the policy which they could not do under their terms of reference Nevertheless they did suggest the reduction of three British Cavalry Regiments with the concurrence of the late Lord Rawlinson then the Commander-in-Chief of India This reduction was at first resisted by the Home Government for whom Lieut Colonel Guinness Under Secretary of State for War, made the following statement in the House of Commons on the 15th March, 1923 —

> "The Hon and gallant Member for Kirkcaldy Burghs (Sir R Hutchison) asked about the reduction of establishments in India That question is still under consideration So far we have agreed to the reduction of Infantry battalions out there which will bring about a saving of 5000 men The question of the reduction of cavalry and artillery is still under consideration We cannot agree to the reduction suggested by the Indian Government in the [illegible] saving by cutting down establishments It must be remembered that the British regiments in India are all part of our [illegible] making machinery [illegible] building up of our reserves and also has a serious effect upon our power of mobilisation If we agree to the Indian Government making excessive decreases it must mean eventually further cost being thrown on our Budget for making up reserves in other ways "

This statement confirmed the belief widely prevalent in India that the strength and equipment of the Army in India was being maintained for Imperial and not solely Indian purposes, and that nevertheless its cost which should be met at least to [illegible] the British Exchequer was saddled upon India

tha [illegible] Indian view stated

2 [illegible]

of [illegible]

an [illegible] [illegible] on

with India [illegible] Capitation

an annual [illegible]

account of what has [illegible] of this demand has been in dispute for

Charges The equity

so than are the ... of war, in France, Egypt, East Africa, the Persian Gulf and China. We have despatched considerably more than 200,000 men overseas to fight for the Empire of which we are proud to be a living and virile unit. These have been relieved by a certain number of fresh troops from England. At the same time we have maintained our military forces on the frontier unimpaired to protect our line and to be ready as a defensive force to meet any emergencies that may arise in that direction. We are all proud of our military forces and of their gallant men in the field and I can only repeat what I have said before, namely, that the fact that the Government of India are in a position to help the mother country by the despatch of such a large proportion of our armed forces is a supreme mark of my absolute confidence in the fidelity and gallantry of our troops and in the loyalty of the Indian people. That confidence is being every day more and more justified.[1]

And in another work we read —

"The Viceroy was able and had the courage not only to keep up a steady flow of Indian reinforcements to the Western front but to denude India almost entirely of regular British troops and of her large reserves of artillery and ammunition and transport.[2]

276 If then this Army was considered sufficient during the stress and danger and uncertainties of the Great War, how can we say that a larger standing Army is now required? We put this point of view and we were reminded of the future. We needed no such reminder. In all countries and in all ages there is such a thing as an Army for peace time and an Army to meet war and remote eventualities. The contingency our friends have in view cannot be met by our standing Army; other forces will have to be mobilized for that purpose. At the present moment heavy expenditure is being incurred on the mechanization of the Indian Army. Now it is the view of competent authorities that a mechanized army cannot operate in a mountainous country such as we have in the transfrontier. Its mechanization is made in pursuance of the Imperial Chain of Defence. But why should India be made to pay for such imperial necessity?

277 That the cost of such units is being thrown upon the slender resources of India was strikingly demonstrated by the one instance to which we have quoted. That we have no other instances to quote must not be taken as implying that other instances do not exist. We are not free to refer to the evidence of military experts who placed their views *in camera*; still we have the following views published by another

Indian Army and the Imperial Defence

[1] Speech delivered to the Imperial Legislative Council, Delhi, on 12th January, 1915.
[2] India by Sir Valentine Chirol, p. 159.

expert Brigadier General N Rowan Robinson C M G , D S O no friend of the Indian aspirations who in his article entitled, " The Place of India in the Defence of the Empire " contributed to a monthly Journal named " India ", gives expression to the following views which support our own He says —

" The British Empire from the military point of view is a dual empire compounded of East and West As is natural in a realm born of the sea the divisions are oceanic Very roughly, the shores washed by the Atlantic and the Mediterranean, the Pacific and Indian Oceans limit the eastern The parent and dominant empire in the West is centred in Britain , the younger and dependent empire in the East is centred in India Both centres are in direct contact with great defen
menace to I
Both B
for the defence of that country , but, when she is not directly threatened are available for imperial purposes just as the troops of the home army are available for service in India should they not be engaged in a campaign in Europe Indian troops have been employed in the British service all the world over , but their limits would be set normally in eastern theatres We might thus expect to find them operating—in China as at the present moment on the east coast of Africa as in the War of 1914, or in Australasia or Iraq in each case based on and supplied by India And both Australia and South Africa would naturally be prepared to reciprocate The former is specially interested in Indian defence partly because India furnishes an essential link in the Imperial air chain but mainly because with India and consequently Singapore in other hands she would be open to attack from every direction Australasian troops might therefore be found among the first reinforcements to an army repulsing a great assault on the North West Frontier "

" The value of India as an imperial military asset was strikingly demonstrated in the Great War As the country was united in loyalty and was not threatened externally it was possible firstly to utilise Indian troops in the trenches in France pending the arrival there of the new armies secondly, to withdraw British regular troops from India and replace them by territorials two matters of primary importance in view of the scarcity of well trained troops at the time , thirdly by means of Indian troops to maintain pressure on the enemy in every theatre outside Europe and lastly to use India as the main base of operations for all eastern campaigns " [1]

Threefold functions of the Army

278 It has been said that roughly speaking the Indian Army may be taken to have a threefold object in view in that a third

[1] India July 1929 pp 1? 16

of is maintained for the maintenance of internal security in country a third for the defence of its frontiers and the remaining third are covering troops to replace wastage assist and, if necessary, relieve the field army. Frequent statements to this effect have been made in the Central Legislature, and as often as they have made they have met with the demand of the Assembly that there is no reason why the security troops should not be replaced by a cheaper agency such as the gendarmes or the Police. As it is, General Robinson points out that the numeral necessity of such troops is no longer justifiable. He says —

"With regard to the first problem we may note that the suppression of local rebellion riot and disorder has been greatly simplified by the advent of the aeroplane and the armoured car for these weapons apart from their fire power and their immunity from counteraction possess that capability of striking a swift blow which especially in the East multiplies greatly the value of force. Internal troubles present their gravest dangers when expressed in non-co-operative in interference with communications and in sabotage of works. Such action can only be defeated by a firm administration in Delhi and in London."[1]

279 As regards the heavy cost of the mechanization of the Indian Army the following extract drawn from the same source is suggestive

There is a last military question to be considered not indeed of defence but of means and method. The Home Army, to meet the requirements of European warfare, is undergoing a process of mechanization. To enable the process to be continued either India must follow suit as regards British troops or the Cardwell system on which the Army has so long been based and which has proved its worth so well, must be scrapped. In spite of her mountainous war theatres India has after considerable thought decided to mechanize. And fortunately there is a solution ready to hand for the satisfaction of her conflicting tasks in mountain and plain, for the mechanization of a large part of the British troops will strengthen them greatly for duties of internal security on which they are largely employed and it will add to their value in all roaded areas on and beyond the border and in such countries as Palestine and Iraq while the Indian Army, unmechanized will continue to furnish all the cavalry, infantry and pack artillery likely to be needed in rougher terrain either in the East or Middle East."[2]

280 It has been said that India must be ready for the next war. There is scarcely any secrecy about what is expected

[1] India July, 1929, p. 18 [2] Ib p. 19

expert Brigadier General N Rowan Robinson C M G D S O no friend of the Indian aspirations who in his article entitled, "The Place of India in the Defence of the Empire" contributed to a monthly Journal named "India", gives expression to the following views which support our own He says —

"The British Empire from the military point of view is a dual empire compounded of East and West As is natural in a realm born of the sea the divisions are oceanic Very roughly the shores washed by the Atlantic and the Mediterranean, the Pacific and Indian Oceans limit the eastern The parent and dominant empire in the West is centred in Britain the younger and dependent empire in the East is centred in India Both centres are in direct contact with great defence problems and incidentally apart from the air menace to Britain are well placed for dealing with them

Both British and Indian troops in India exist primarily for the defence of that country but when she is not directly threatened are available for imperial purposes just as the troops of the home army are available for service in India should they not be engaged in a campaign in Europe Indian troops have been employed in the British service all the world over, but their limits would be set normally in eastern theatres We might thus expect to find them operating—in China as at the present moment on the east coast of Africa as in the War of 1914 or in Australasia or Iraq in each case based on and supplied by India And both Australia and South Africa would naturally be prepared to reciprocate The former is specially interested in Indian defence partly because India furnishes an essential link in the Imperial air chain but mainly because with India and consequently Singapore in other hands she would be open to attack from every direction Australasian troops might therefore be found among the first reinforcements to an army repulsing a great assault on the North West Frontier

"The value of India as an imperial military asset was strikingly demonstrated in the Great War As the country was united in loyalty and was not threatened externally it was possible firstly to utilise Indian troops in the trenches in France pending the arrival there of the new armies secondly to withdraw British regular troops from India and replace them by territorials two matters of primary importance in view of the scarcity of well trained troops at the time thirdly, by means of Indian troops to maintain pressure on the enemy in every theatre outside Europe and lastly to use India as the main base of operations for all eastern campaigns"[1]

Threefold functions of the Army

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[1] India July 1929 pp 1 16

In our re t memora n n th sub t we have ccepted he milit ry b t we h ve only n t s with a clear u der tanding that the military exp liture is n t wholly taken out of the vote f the As mbly It s possible to fix a mini mum of India's military requirements s t which no even ts might be established f r a given number of years

But though this may bring some measure of relief other questions remain and have to be grappled with It is con tended that India's aspiration for self government cannot be gratified until India is able to defend herself We quote Professor Keith for an answer —

> But these considerations should have rendered all the more eager th endeavour to open up military careers for Indians and to train the people to defend themselves as a necessary condition of self government [1]

As he wrote in an earlier page —

> The rule of Britain in India began with the com mercial transactions of a company and interesting as is the history of the East India Company, it is impossible not to recognise that this commercial origin was hostile to the development of a true political sense "[2]

As others see us

283 That is the historian's verdict of England's government of India We have already referred to Mr Montagu's words spoken to the same effect in the House of Commons (§ 14) and to the argument as to their inherent incapacity (§187)

We would only add to what we have said there that the Indian soldier is well able to hold his own against the pick of the European Army is recognised and was duly ack nowledged at the time, to give only one instance, out of the many to hand we quote the following message from Field Marshal Sir John French, dated 16th March 1915 quoted by H E Lord Hardinge in his speech at his Legislative Council on the 18th of that month —

> "I am glad to be able to inform Your Excellency that the Indian troops under General Sir James Willcocks fought with great gallantry and marked success in the capture of Neuve Chapelle and subsequent fighting which took place on the 10th 11th 12th and 13th of this month The fighting was very severe and the losses heavy, but nothing daunted them The tenacity courage and en durance were admirable and worthy of the best tradition of the soldiers of India"

Indian Defence and Indian Reforms.

284 We feel constrained to observe that India's present inability to defend herself is neither inherent nor due to any causes for which she is recountable Her lack of prepared ness must be ascribed to her lack of opportunity It was said that while the Indian soldier was brave he lacked leadership

1 Responsible Government in the Dominions 2nd Ed p 40 2 Ib p 44

because he was uneducated and as soon as the Indian is educated he becomes effeminate. The glorious record of the "*Indian Corps in France*" is a conclusive refutation of such calumny. We are then driven to the conclusion that for her military equipment India does not lack the crude material, but she has lagged behind and has now to make up for much lost time and opportunity. How is she going to do it? The majority of us think that a fair beginning is possible with the establishment of a military college in India and the adoption of a more liberal policy in the matter of the selection of cadets than what has been hitherto the practice. We have been assured that a beginning in this direction has already been made. We can only hope that it will be continued. The other recommendations of the Skeen Committee include the abandonment of the eight units scheme. Two reasons have been suggested for the initiation of this scheme. The first that of not unduly impairing the efficiency of the Army which as a war machine must be maintained in the highest pitch of efficiency which would not be possible if raw recruits are indiscriminately distributed among the various regiments of the Army, and secondly it is said that the isolation of the eight units would give Indians the best chance for displaying their capacity for organisation and leadership which is not possible if they are employed in mixed regiments. The Indians complain that the segregation of all Indian cadets by limiting their employment in the eight regiments is due to the objection of British Officers who do not view with equanimity the possibility of their serving under an Indian Commander and that apart from that remote contingency there would be a serious falling off in the recruitment of British cadets if they were faced with the problem of having to serve with subalterns of other nationality.

285. It is hardly necessary to recall the identical objection raised to the employment of Indians in the All India Services. It is even less necessary to point to their futility, since whatever prejudice the Englishman may feel of serving under or with an Indian he has the good sense and the breadth of vision to reconcile himself to the inevitable. And as the civilian has bowed to the inevitable without loss to his prestige and efficiency, so we think the subaltern will if only he is taught to think that way. Moreover it is not one of India's demand that the Indian Army should for all time be commanded by Englishmen. Both the dictates of sentiment and economy demand the necessity of the Indianization of all ranks. India can wait but it will not linger. She is ready to pocket her pride for the sake of efficiency but efficiency must not act as a drag demanding the sacrifice of her self respect.

CHAPTER VI

PROVINCIAL GOVERNMENTS

286 We have been favoured with voluminous documents descriptive of the working of reforms in the nine provinces and the Central Government and with the solitary exception of the Central Provinces and Berar, with proposals which more or less favour a general advance in the direction of larger autonomy. Provincial views

The Madras Government whose proposals are as thorough going as they are logical had in the descriptive volume prepared the ground for their ultimate recommendation by giving a full and lucid picture of the working of dyarchy which had undoubtedly worked well in that presidency in spite of its inherent drawbacks and facility for conflict. The non-co-operation movement, which had become well established before the advent of the reformed councils appears to have found uncongenial soil for the display of its virulence amongst the level headed politicians of Madras.

287 The term "autonomy" must be understood in this connection as connoting no more than provincial self government subject to such safeguards and the residuary powers as may qualify unlimited authority and in the absence of the subject or context connoting otherwise it will be used in this sense throughout this report.

The *bete noire* of communism was however, by no means absent here. Where the real conflict however took the form of an internecine jealousy between the Brahmins who had for long monopolised almost all avenues for public employment and the non Brahmins who challenged their supremacy and attacked their monopoly by a … opposition which completely st… and drove them out of their … alanche of opposition.

288 And behind the non Brahmins stood millions of the despised and depressed classes whom both the Brahmins and non Brahmins had oppressed for centuries. Their very shadow was a pollution to the so called high caste Hindus who conspired to deny these unfortunate people the use of public wells and even the use of public roads. They were backward illiterate poor and unorganised, their number was large but their influence negligible. They watched the social upheaval between the two caste belligerents and profiting by their example bestirred themselves and started an aggressive campaign both against the Brahmins and the non Brahmins which threatened to storm the bulwark of all orthodoxy. But during the last decade they have not succeeded in gaining a substantial foothold either in the public services or in the Councils which might have

served as a sounding board for the ventilation of their grievances The fact is that the depressed peoples have developed a class consciousness within the last few years When Mr Montagu was on his mission to India the depressed classes sent their representatives to interview him but they boycotted the Southborough Committee and they did not appear before the Joint Parliamentary Committee with the result that they were allotted only seats by nomination and their representatives naturally suffered from the dual wrong of insufficient inadequate and insecure representation They have since made good their past apathy They have broken away from the leading strings of their Hindu compatriots and their representatives met us at every centre and treated us to a long recital of their grievances many of them social and some of them such as no wise legislator can afford to ignore We have already adverted to their case more fully in an earlier chapter

Madras Review

289 But neither the cleavage between Brahmins and non Brahmins nor the mute spectre of the downtrodden pariah in the background marred the progress of the reforms in Madras As the Madras Government observed ' in conclusion it may be said that the degree to which the council reflects educated opinion has increased with each council [1] But the Report goes on to add that even the non Brahmins who had grasped the opportunity to form a government of their own and had been instrumental in bidding them God speed became restive when they found them insufficient for the display of their talents or the employment of their energies Their federation demanded full provincial autonomy and their members slowly gravitated towards the Congress which at one time stood for complete dominion status and nothing short of it though a strong wing of congressmen in Madras have since gone even further in demanding complete independence for India outside the Empire For example in 1926 the Provincial Congress Committees of the two main divisions of the Presidency Tamil and Telegu both passed resolutions advocating such independence [2] This resolution was defeated in the Calcutta Congress of 1929 by a majority though the minority were left free to carry on their propaganda and educate public opinion in favour of their separatist movement

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[1] Report p 83 [2] Ib p 84

CHAPTER VII

OTHER RECOMMENDATIONS

I

Finality of the Constitution

290 The Reforms Act of 1919 was professedly temporary As provided in Section 84A it was subject to revision at the end of 10 years The authors of the Montagu Report said that the next revision should be equally transitory They say "We regard it as essential if the terms of the announcement of August 20 are to be made good that there should from time to time come into being some outside authority charged with the duty of re surveying the political situation in India and of re adjusting the machinery to the new requirements "[1] There can be no doubt that under the declaration " the time and measure of each advance can be determined only by Parliament " the right is reserved to Parliament but it is a right which the Parliament can waive, since it is unquestionable that the transitoriness of the constitution has become its own weakness and if the constitution had not been declaredly temporary though it *might have been* subject to an *arrere pense* the agitation for more reforms would not have received the same incentive to boycott as the constitution actually made Value of Finality

291 Temporary constitutions please nobody The giver thinks that if he has given too little it does not matter as after all it is only for a short time, the taker thinks that the little given might well be refused because the giver will then give the next instalment Moreover a short lived constitution affords both parties time to marshall their forces and each time that it comes up for revision the same objections are again trotted out against further reforms as were urged against any reforms at all For instance we have been treated to a serious diatribe against the Indians inherent incapacity to rule themselves of their love for bureaucratic rule of their illiteracy, their religious feuds and the presence of an impartial arbiter, the danger of lowering the British standard of efficiency, and many more of the same kind which had confronted the pioneers of the present reforms

292 If the constitution is to have the finality which we recommend the following questions *inter alia* would have to be embodied in the new Act —

(1) A procedure for amendment of the Constitution in progressive stages

(2) Reservations how to remove them and when

(3) Provision for a possible federation of the Indian States

(4) Safeguards e g a provision for safeguarding the Home Charges and the like

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[1] Report § 261

What India wants is an organic constitution capable of self development and self expansion without reference to extraneous authority. Our recommendation must be understood in this sense.

II

The Separation of Burma

Origin of the agitation

293 We have opposed the separation of Burma taking into consideration numerous aspects of the question (1) Financial, (2) Economic (3) Political (4) Strategic (5) Social and sixthly and lastly Sentimental.

294 The credit for the inception of an agitation for the separation of Burma from India must be given to other interests than the Burmans. It was started on the eve of the first reforms, but the agitation has since been taken up by one section of the Burmans though another section belonging to the Nationalist group have opposed its severance at this juncture holding it more advantageous to Burma to remain a part of India whose support it can count on and has received for its deliverance from autocracy.

295 Burma is a polyglot province with an admixture of population in which the Burmans are naturally in numerical majority. But the trade and commerce is in other hands. The mineral wealth of the country is being exploited by Europeans, its rice trade is in the combined hands of Europeans and Indians while India supplies its labour force not only for the oil and mineral industry but also for harvesting the paddy.

296 All enterprises are being financed by non Burmans. The Europeans control the higher banking while the Indians mostly the Chetties from Madras do the money lending. Rangoon the capital of Burma is more an Indian than a Burmese city. Of its population of 3[illegible]0 000 no less than 200 000 are Indians. These are employed as clerks and cartmen tram conductors and mechanics and they are preferred to the Burmese for manual labour because they are both more industrious and hard working and capable of sustained labour which the Burmans are not.

Burma's population

297 Burma is at present an undeveloped country extending to about 26[illegible] 000 square miles of which about 184 000 square miles are in British possession while 16 000 is unadministered and 63 000 is covered by semi independent Native States. Its population at the last census (1921) was 13,169 099, distributed as follows —

	Per 1 000
Buddhists	8[illegible]1
Animists	53
Mahommedans	3[illegible]
Hindus	26
Christians	26
Others	1

298 Its average revenue is approximately 10 38 lakhs The density of its population all told is only 57 per square mile, against 608 and 426 of the thickly populated Provinces of India e g, Bengal and the United Provinces Admittedly there is considerable scope for *immigration and industrial*, agricultural and other general development

299 The latest phase of the Burmese agitation in favour of separation has taken a form of an anti Indian agitation It is said that the Indian is flooding the country and exploiting its natural resources Curiously nothing is said about the Europeans Indians *complain* that the separatist movement was engineered by some Europeans with the dual object of shering it off from India for themselves and for thwarting the growing competition of the Indians with them But whether it is so or not, we have to take note of the fact that an agitation exists A demand for separation has been addressed to us and though it has been opposed by the Indians we cannot resist the demand if it would be in the interest of Burma that it should be partitioned off from India

300 A strong grievance of Burma and the Burmese Government who have supported their claim for separation rests on the ground that there is nothing in common between the two countries, that Burma is the furthest extremity of India has no material voice in the management of her own affairs being controlled by the Government of India who have treated her as a Cinderella Province neglected her special interests and made her a milch cow for India's interest, that Burma is in no way menaced by the existence of a vulnerable frontier like India for the defence of which she has to contribute an amount out of all proportion to the benefit received, or the protection afforded to her that the impenetrable chain of hills which separate her from India in the West and from China and Siam in the East reduce the question of her defence to a minor issue but [illegible] remains a part of India she would not be able to shake off the [illegible] growing incubus of the Government of India's military expenditure that Indian competition with Burmans [illegible] the latter since the Burman has a higher standard of living and cannot fairly compete with the Indian labour [illegible] No unity of interest

This is in short Burma's case for her separation from India

301 Against this it is recognized that the Burmans are still backward and not [illegible] entrusted with the full measure of self government that the Indian competition is keen but by no means unfair or unnecessary that the Indian trader and the labourer contributes to its growing wealth and prosperity and that if the Indians are not employed in the higher services their places can only be filled by Europeans which would add to the cost of the administration It is admitted that the Chetty exacts a higher rate of interest but the [illegible] [illegible]

that the Burman is under no obligation to take it and that considering the risk run the interest though high is not excessive. Lastly there is the question of Burma's heavy indebtedness to India which would bankrupt her resources with separation.

The *pros* and *cons* of the question were gone into by us in meticulous details but it is neither necessary nor indeed would it be expedient for us to do more than categorise the grounds urged and our own opinion thereon.

Burma is the milch cow of India

302. Of the several grounds urged in favour of separation the one of finance is the oldest, and it is one which has received the strong backing of the local Government. The complaint that Burma is being fleeced by the Government of India on account of its excessive military expenditure is a complaint echoed by almost every province of India. But as one of us pointed out, it is a complaint not against India but the Indian Government with the constitution with which we ourselves are not satisfied, otherwise we would not have recommended a change. While the Burmans ask for their separation from India they in the same breath ask for the retention of the control of the Secretary of State for India over their divided selves. If so we fail to see what financial advantage would result to them therefrom since the revenues of India at present vest in the Secretary of State and he is equally responsible now for the allocation of the Provincial Revenues. With its separation from India it is not likely that the same individual will so alter his policy as to favour Burma at the expense of India. But this question apart the financial burden of Burma can be relieved and indeed if unfair ought to be relieved whether Burma is separate or joint. It is an iniquity of which many Provinces have complained and it has got nothing to do with the demand for separation.

Economic drain

303. the Indians the opin engendered by the lies entering Burma during the harvest season and leaving it thereafter. This is given as the chief reason why Burmans regard the Indian coolie as a drain. We have already referred to the opinion of Europeans who are employers of Indian labour but who do not take it in that light. Nor do they support the contention that the Indian labourer unfairly competes with the Burman who is not capable of the same degree of physical endurance or sustained work. We were told that the Burman was a charming fellow—easy happy go-lucky—not used to hard labour or long hours of work and that he is neither thrifty nor provident by habit for as soon as he has made a little money he thinks it is quite enough and goes to a race or a *pwe* to enjoy himself till the pressure of want drives him back to his work. That the Burmans have not yet become

ed to the hardship of factory life or military discipline is her matter upon which we find abundant evidence. In the of these facts it is idle to contend that Burma would be ter in the economic field by her separation from India.

04. As regards her political advance two points were made the witnesses. It was said that literacy is much higher in rma and that there is no Hindu Muslim question to retard political advance and since these causes are holding back progress of India there is no reason why Burma should it with India for a substantial advance in the direction of f government. Political

305. That Burma is more literate than India is admitted, and is the fact that Burma does not suffer from the disintegrating fluence of caste or the corroding effect of communalism. None e less the Burmans cannot forget that it was Burma that was ft out of the reforms in 1919 and it was India's championship her cause which made their extension to Burma possible. The unction of Burma with India is not a source of her political eakness but of her strength. Left alone she will fall an easy rey to those who cannot possess the same sympathy with her spirations as the Indians feel. We do not think that with her union with India Burma has been politically a sufferer in the past or that she is likely to suffer in the future. On the other hand we fear that her separation will in this respect be entirely to her disadvantage.

306. Some Burmans turn to Ceylon for an example of what a separated province can achieve. But Ceylon has not yet achieved a form of Government superior to that of India and it is too early to see whether the Ceylon Reforms Committee's recommendations, even if given effect to, would give that Island a Constitution comparable to that we have recommended for Burma. Our advice to Burma then is—wait and see and don't be stampeded into an agitation which will do Burma no good and place the Burmans at the mercy of people who have less in common with the Burmans than the people of India.

307. It is admitted on all hands that Burma's defence is Strategic position

In our Chapter on the Army in India we have shown to what

tists have given vocal ... that Burma is as distinct from India as is Ceylon and Burma is no more interested

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in the defence of India than is Ceylon But the argument misses our main contention Those of us who plead for the reduction of the Army Expenditure of India contend that the British garrison in India though stationed in and maintained at the cost of India is in reality maintained equally if not mainly for the defence of England s Eastern possessions Ceylon has no army of her own being certain that the Indian Army is there to defend her integrity South Africa the Malaya Federated States and even Australia depend upon that Army and yet not one of them contributes a cent towards its upkeep

Financial

308 In complaining of the economic drain of India Burma forgets that she owes her position of comparative affluence to the Indian connection It is India's money which paid for the Burmese war and for several years made good her recurring deficits Financial experts have advised us that if Burma has to repay her debt it would once more launch her into the era of annually recurring deficits from which she has only recently emerged That Burma is heavily indebted to India admits of no doubt only the extent of her indebtedness is in dispute It is claimed for Burma that she is not liable to pay for India s war of conquest but it is forgotten that it was not India's war but Great Britain's and India was only responsible for footing the bill She advanced the money to which she is entitled whoever pays it Burma or England Other questions remain which would equally cripple Burma's resources and all things considered we think that her separation will not bring her the prized relief from financial embarrassment of which she complains on account of her union with India

Defence of Burma

309 Again Burma does not occupy the same position of isolation as Ceylon and the other countries to which we have referred She is geographically a part of India Her eastern frontier is vulnerable and within a striking distance of another contiguous power The invasion of Burma by the Chinese is not yet a mere memory It has left its mark upon its political geography And there are numerous tribes to cope with The eastern frontier of India is the eastern frontier of Burma A chalk line cannot be drawn where the Indian frontier ends and the Burmese frontier begins

Burma even if separate will have to remain militarily a part of India The financial relief which she hopes to obtain by her separation is therefore illusory

Social disaffinity

310 Next Burma complains that the Burmans have nothing in con [illegible]
Their [illegible]
le the [illegible]
race is apparent but India contains a congeries of various races How many of her people are of the same race ? Still they cannot on that ground demand their separation from India any more that the French Canadian can demand a partition of Canada

use they belong to the Latin race Burma would have a l ground for demanding separation if her religion, culture or usage, were exposed to interference on the part of India complaint at present is against the Government of India as constituted Let her enjoy her new found freedom and if suffers from her federation with India it would be time for to complain But let her first try the reforms we recommend which if granted would satisfy her ambition for onomy and dispel the doubt in her mind if any, that India's nal problems retard her progress

Her sentiment for a separate life and a separate Govern nt would then be both gratified And what is more, it would ay the fears naturally present in the minds of the Indians that th her separation the Burmans will join with the Europeans squeezing the Indians out With the bitter example of enya before them Indians must be excused for being naturally ensive of their future in separated Burma As it is, the ess of squeezing out the Indians has already commenced the new rules framed for the recruitment to the Burma ncial Service the educational qualification for eligibility xpressly excludes graduates of the Indian universities The Passengers Act which was passed in spite of Indian protest had at last to be vetoed by the Governor General It was a piece of discriminatory legislation the effect of which would have been to levy a special poll tax upon Indian immigrants With such examples before them Indians may well feel alarmed at the separatist movement which the Burmans themselves will live to rue but then it would be too late

III

REFORMS IN THE NORTH WEST FRONTIER PROVINCE

312 The five settled districts now constituting the North Western Frontier were a part of the Punjab until 1900 when ... provinces for strategic reasons, ... the opinion that the frequent ... to which they had become too ... not ... ught under control unless the ... from the centre There was ... Mackworth ... The Govern ment of India cl ... s area by a ... or the trans- ... stified their ... statistics of ... the town of Peshawar feels more s ... A semi military government has insured the maintenance of peace in the trans border area, which we visited during our tour Some of us

went far into the interior to view the numerous rifle factories which were being set up within a few yards of the Peshawar Kohat highway The machinery used was of the crudest but the firearms turned out were to all appearance equal in finish to those manufactured in Europe We went cross country to see for ourselves the actual condition of the tribesmen who were all seen slinging their rifles from their shoulders We inquired why they carried them and were told that owing to blood feuds life in the valley was insecure and that every man, and indeed every boy from 10 upwards, had to learn the use of a rifle which they used for self defence and plunder by which they eked out their scanty existence These tribesmen are a fine race and we were greatly struck by their embarrassing proffers of hospitality which we were assured was a special feature of the Pathans who inhabit the five settled districts and the unsettled tribal territory, to the west right up to Afghanistan, the people of which are by race and affinity of the same stock The general characteristic of these tribes is they are a brave people who love fighting even if it be for the skin of a goat They attack one another, preferably by night, and consequently all villages are fortified and provided with watch towers as a look out for the marauder Life, we were told, is wholly insecure in these rocky, waterless wastes, presenting as they do a striking contrast to the settled districts where we saw every sign of a settled life But even here a constant vigilance has to be maintained, and the chief town of Peshawar, though a large cantonment, is strongly protected by a wide belt of barbed fencing and other entanglements, in addition to which searchlights sweep every corner of the horizon to give a timely warning of approaching raids

313 We spent several days in Peshawar and its environs to become personally acquainted with some of the problems on which we have now to embody in our report Sir Norman Bolton was good enough to appear before us, and with the co operation of a *nominated Provincial Committee* we were able to examine a large number of witnesses on the subject of further reforms

314 We have perused all the literature on the subject, including the report of the Bray Committee, and we have come to the conclusion that while the settled districts are still most backward and have not even entered upon their political novitiate in local self government, still the people there cannot be left out in the cold while the rest of India is making rapid strides towards responsible Government At the same time we cannot delude ourselves into a belief that the jute that thrives in Bengal will equally thrive in Peshawar , we have to take into account not only the geographical conditions but also those arising out of the strategic importance of the frontier, and the desirability of maintaining a continuous policy which has proved so successful These considerations would have had less

weight were not the civil administration of the province in perpetual heavy deficit, met out of the funds of the Central Government

We had pointed out this difficulty to several witnesses who replied to us in a set formula that somebody had to pay the watchman's wages But the frontier districts are not the watchers but the watched for whose safety special provision has to be made, which partially accounts for the annually recurring deficit in the provincial budget made good out of the Central Revenues

It is extremely unlikely that the Legislative Assembly will consent to the surrender of its power of control over this deficit or agree to transfer it to the provincial budget for disposal at the will of the local council This seems in itself an insuperable objection to the grant of any reform on the present lines

Moreover, it must not be forgotten that the rest of India had itself to pass through the school of politics stage by stage Its promotion has been slow and gradual Each forward step has been taken after the effect of that preceding it had been fully tested and tried We have in our previous chapters passed in review the varied stages in the evolution of its constitution Judged by that standard the five frontier districts have not yet come up even equal to the reforms associated with the Morley Minto scheme

315 It has been said that if the five districts had remained a part of the Punjab they would have shared in these and other reforms equally with the Punjab The answer is that the districts would then have probably learned more quickly by their association with it But we are not really free to conjecture what would have been their position both under the reforms of 1909 and 1919 One thing is certain that if the phrase progressive realization of self Government ' has any meaning any advance in the Frontier Province cannot be otherwise than by stages We may overlook their backwardness hope that the blood feuds would subside and that the steel that is smelted to forge swords will be turned to fashion sickles hope again that religious sobriety will replace religious rancour still the fact remains that the Frontier districts must show by example that they have learnt the lesson of civic responsibility This they can amply do if we recommend the immediate extension to them of the reforms which the rest of India obtained under the Morley Minto scheme of 1909

316 We further recommend that the question must be re examined after ten years with a view to exploring the possibility of further reforms That is the drill through which India has passed and we do not see why our friends in the North Western Frontier should not do the same

CONCLUDING REMARKS

317 Finally, Your Excellency we may be permitted to close this Report on a personal note All of us have been devoted servants of India some of us her sons who have devoted all that was best in them to the service of their Motherland Twelve months since when we took office we were made the targets of cheap ribaldry and organized obloquy—wherever we went we found ourselves surrounded by hooting crowds Some of us were threatened with personal violence some threatened with death Some had to endure the tempestuous outburst of popular disfavour in the estrangement of old friends the snapping of lifelong ties but we have successfully weathered the storm finished our labours and have our consciences as our witness that we have striven to work loyally and faithfully in the interest of our people and the service of our Motherland

318 We have now submitted proposals the full effect of which some of us may not live to see But we have this satisfaction that our contribution to the solutions of the great constitutional problems which confront Your Excellency s Government may not be in vain

We know that men greater than ourselves had to march to the pillory or mount the scaffold for the courageous exposition of their views We have faced the one and not escaped some of the pangs of the other and now that our task is done we feel some relief though we still suffer from a feeling that our recommendations will be denounced as revolutionary by some and reactionary by others But we were conscious of this when we penned our Report And if we could not give India more we could not give her less Her self respect and manhood alike demand it May the Mother of Parliaments display in her case that prevision which the occasion needs and may her Counsellors remember that the safety of the State lies in the contentment of its people

319 We had subjoined our Report with a summary of our recommendations As these have since been embodied in the Secretary s Report we do not wish to duplicate them here But what we should like to have done is to distinguish the recommendations which were unanimously adopted from those which were adopted by a majority

HARI SINGH GOUR

CHAPTER IX

Sir Hari Singh Gour's Notes of Dissent

I

Fundamental Rights

320 I regret I have to enter my protest against the amendment made to the Fundamental Clause as drafted by me

As originally drafted the clause only protected all citizens of the State and in the second place it placed no disqualification upon the legislative power of the Indian Legislature to repeal all such laws as it may find not to be in consonance with the spirit of the reformed Government The amendment makes the clause too wide by extending the statutory protection to all British subjects and it further saves certain laws however obnoxious they may grow to the people, from repeal

321 As to the first, it is now the established principle embodied in the written constitutions of many countries and so far as the British Commonwealth is concerned, recognised by the Imperial Conference that all Dominions including India possess the right of controlling their own population and may for that purpose place any restriction they choose upon immigration from other countries For example the Imperial Conference of 1918 passed the following resolution —

> It is an inherent function of the Governments of the several communities of the British Commonwealth, including India that each should enjoy complete control of the composition of its own population by means of restriction on immigration from any of the other communities [1]

322 This resolution was reaffirmed by the same Conference in 1921 [illegible] discriminatory legislatio[illegible] [illegible]le immigration of foreig[illegible] [illegible]erwise Apart from the [illegible] constitutionally claim the same protection from a State to which he owes no allegiance since allegiance and protection are mutual rights and there can be no protection as of right without allegiance Following this declaration India has already passed an Act (Act III of 1924) the object of which was to ensure reciprocity between India and the other parts of the Empire [2] If the amended resolution is given effect to it would absolutely protect all British subjects in India without Indians obtaining the same protection anywhere else in the British Dominions

The second amendment is equally unacceptable to me in that it tends to place a limit upon the legislative authority of the

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1 R[illegible] 21 passed on [illegible] Jul[illegible] 1918 Report [illegible]

2 See Assembly Debates [illegible]

Indian Legislature which does not exist even now I cannot consent to India s future Parliament being truncated in the manner proposed

II

The Separation of Sind

Constitutional objection

323 While we were taking evidence this question was sought to be raised by a witness when one of us raised a constitutional objection whether it was competent to us to go into the question at all As that objection still remains undecided I may be permitted to restate it It will be seen that under Section 53 of the Government of India Act the power to constitute a new province vests in the Governor General in Council subject to the previous sanction of the Secretary of State The Parliament has already parted with that power and vested it in a specified authority Under section 84A of the Government of India Act all that the Statutory Commission (and by implication our committee with them) are entitled to report is ' to what extent it is desirable to establish the principle of responsible Government that is to say to what extent the Governor General in Council shall be made responsible to the legislature This is one thing , but to advise how that Government when formed or for the matter of that the Governor General in Council is now constituted shall exercise that discretion is a matter solely within his authority and discretion and we should be travelling beyond the scope of our inquiry, and I submit overstraining our authority if we went into this and such questions I may add that this objection was reiterated again and again in Bihar and Burma and with the same result I therefore feel constrained to enter our protest against the Parliament being called upon to decide a purely domestic issue which might conceivably affect the discretion of the Indian Government and compel it to adopt a course which it might have otherwise considered inexpedient I have stated my view here because there is a movement set on foot that if India is to receive a substantial measure of self government let Burma at least be separated I shall deal with this question under its appropriate heading As I am now dealing with an Indian Province I should like to make it plain that our objection applies equally to all proposal for the creation of new Provinces and in view of Section 60 to the redistribution of the existing Provinces

324 I had raised this objection in our Committee during the course of discussions but as it proceeded to adopt the safer course of formulating their recommendations upon all questions on which evidence was led it must not be assumed that my objection was overruled even by our Committee

Subject to this objection I now proceed to state my views on the Separation of Sind

325 Though the Committee have by five votes to four (including the three votes of our Mahomedan colleagues) decided in favour of the separation of Sind the reasons which have influenced the majority to accord their support to that decision would, in my humble judgment, lead to a *non sequitur* Our three Mahomedan colleagues voted for separation presumably because it is a common feature of the Nehru Report and the Delhi Muslim Conference Now in the first place the separation of Sind is not recommended in the unqualified terms in which our resolution is couched since the Nehru Report is more guarded in its recommendation for it says:— Sind a defic t Province

> We feel therefore that the argument for the separation of Sind is very strong In the absence of sufficient data regarding the financial position we are unable to give a definite opinion on it But it is unlikely to say the least of it that financial considerations will be such as to overrule all other important factors which we have discussed "[1]

326 The data which were then lacking are available to us now and we would say with the Nehru Report that they present the "insurmountable difficulty" which must overbear the consideration of their sentiment, which influenced the majority of our colleagues Our Chairman supported them because as he then said he sto d for the principle of self determination Now self determination is a fine phrase added to the political vocabulary by President Wilson in his enumeration of the Fourteen Points upon the acceptance of which he led America to join the War But what does self determination imply? There must of necessity be an undivided self, and that self of Sind is sharply divided and the two selves have through their accredited representatives opposed the se[illegible] [illegible] both the Bombay Government and the Bombay [illegible] unanimously recommended against [illegible] of the Bombay Committee Khan [illegible] a leading Sindhi representative [illegible] gislative Council The Bombay Government have examined the question in great detail and strongly oppose its separation Sind is a small area even smaller than Assam which is the smallest existing Province in India Its area is only 47 000 square miles as against 54 000 of Assam of which 10 000 square miles are desert and uninhabited Its population of 3 279 377 again is small as compared with Assam the population of which is 7 [illegible]00 000 Financially it is a deficit Province since its revenue is computed by the Finance Secretary to be only 1[illegible] lacs while expenditure thereon was 222 8 lacs and this deficit would greatly increase—it is estimated by at least [illegible]0 lacs per annum in normal years—and on account of its devastation by the floods this figure is now clearly an underestimate And since it is

1 Report, pp. 67 68

to be provided as is recommended with all the paraphernalia of a Governor's Province a further allowance must be made for additional expenditure for which no provision is made

View of the majority

327 Now the majority of my colleagues who were moved by a sentimental attachment to their religion or the theory of self determination have neither considered nor explained to us in the course of our discussion how this annual deficit is to be met I am aware of the answer usually returned by theorists that the Central Government must find the money But that Government has so far failed to find a Pandora's box whence to meet the claims of all comers nor indeed do we see why the whole of India should be saddled with the cost of a separation which only dogmatists and doctrinaires can ever justify As we have remarked before the Bombay Provincial Committee which included three Mahomedans and a European representative from Sind itself have set their face against separation There is only one note of dissent by Mr Mian Mahomed Shah but while he has struggled to combat the arguments against separation he has urged none in favour of it and the burden of making out a strong *prima facie* case for separation is upon those who want it In the Nehru Report separation was acceded to as a peace offering to the Mussalmans In the Muslim Conference Report we find only a bald statement demanding separation

Bombay view

328 Except the one dissentient member the Bombay Committee are then unanimously opposed to the separation of Sind for reasons stated by the Bombay Government to which they add its comparative backwardness This view is shared by no less a person than Khan Bahadur S N Bhutto himself a full fledged Sindhi Muslim representative in the Bombay Council and Chairman of the Bombay Committee

The movement for the separation of Sind was a part of the original plan for carving out a Moslem province of its own but our Moslem brethren do not realise that a separation would weaken their influence in the Bombay Presidency As it is the number of Moslems in that Presidency is only 19 6 per cent and as the population of the Moslems in Sind is 74 per cent it follows that in the process of the separation of Sind

Government had raised an objection because it would starve that Punjab of water which they needed for the execution of their own irrigation scheme which the Secretary of State disallowed because he considered Sind was in greater need of water from the Indus for the irrigation of its arid desert But the Punjab has not received this decision with equanimity, and the two riverain provinces might in the near future come to closer grips, if we separate Sind and give, as we have recommended, provincial autonomy to the Punjab It may then be that Sind may not receive the same supply of water from the Indus which it is expected to receive now This contingency was expressly mentioned in Sind, but there was no satisfactory answer since the only answer given was that the two provinces would be left free to settle their own quarrels, which they may well do by the Punjab, which is a higher riparian owner, taking all the water it needs, and leaving Sind to console itself with the overflow, in which case all anticipations of Sind being able to balance its budget out of the wet rate to be levied would be falsified

330 Another objection freely raised, though not much pressed, by some separatist protagonists was that Sind, being inaccessible from Bombay, had become the Cinderella Province of that Presidency But the projected railway linking up Bombay with Karachi would soon eliminate this objection I [illegible] Sind has every [illegible] and I therefore [illegible] time I would [illegible] that question in [illegible] are of course [illegible] business not ours New railway link

III

A Second Chamber for the United Provinces

331 I regret I have to differ from my colleagues on the necessity or utility of a second Chamber for the United Provinces The main reasons which have induced the majority of my colleagues to take this course are obscure to me but those which may have led the majority to vote for the establishment of bicameral legislature for that one Province might be —

(a) The existence of a large and influential body of Taluqdars in Oudh ,

(b) The ubiquitous argument about communal feud

No other reason occurs to me other than the general [illegible] to which we have elsewhere adverted But these reasons [illegible] not have influenced the majority to single out one province [illegible] of nine for the trial of such experiment I therefore dismiss [illegible] as not germane to the discussion

332 As for the existence of a large and influential class of landholders in the United Provinces, it is scarcely a reason for the creation of a Second Chamber Equally large though perhaps not so influential a body of men will be found scattered in several other Provinces But apart from giving their class special representation proposals for the creation of a Second Chamber were in all other cases considered and rejected

333 The fact that the Taluqdars of Oudh are a more consolidated body is no reason to constitute them a revising chamber, and under the constitution adopted for such chamber give them that power Now as we have already stated a Second Chamber must, if it is to possess any value at all be a chamber drawn from men who have made their mark in every walk of life By their age experience and wisdom they are held to possess the confidence of that small but thinking part of a nation that might be described as their inner soul But to arm a small body of men merely drawn from a landowning class who may not possess any of those attributes with the functions of a Revising Chamber is to say the least a novel procedure and would in its effect be reactionary

That these leisured gentlemen many of whom have not even acquired the modicum of education much less experience of public business are to control the behests of a popular chamber, savours of the establishment of a hereditary chamber in a Province possessed of five universities and in which higher education is advancing with giant strides

334 The second argument that communalism justifies the creation of a Second Chamber is nowhere since the communal virus has penetrated the other Provinces as well for instance in the Punjab more deeply than in the Gangetic plain Moreover the Second Chamber can at best only control legislation and not general administration which remains and is made responsible to the Council

Being opposed to the establishment of a Second Chamber in a local Legislature I am equally opposed to its establishment in the United Provinces

IV

The Reservation of Law and Order in Bengal

335 I regret I am unable to acquiesce in the decision of the majority of my colleagues in recommending the reservation of Law and Order in Bengal when they have agreed to transfer it in all other provinces They regard Bengal as exceptional, so do I though in a different sense To them the alarming feature of Bengal is the periodic recurrence of anarchical crime added to which they regard the Hindu Muslim equation at the polls as creating a situation of antagonism which would bring a minister belonging to one of the two communities as one of serious perplexity Suppose it is said that a Hindu minister in

charge of the Home Department were to order the opening of fire on Moslem rioters would it not lead even to a wider disturbance of peace, and *vice versa*? The objection overlooks the fact that we have throughout vested the ministry with joint responsibility so that no individual minister can take a decision in so serious a case without the concurrence of his colleagues in which Muslims may be assured of finding a place. Further such minister will have to face the Council and reckon with the Muslim wing there. Then it might be urged that these very facts may conduce to his supineness leading to the vacillation or inaction resulting in similar disaster. I am aware of the municipal fakir case and have learnt a lesson the effect of which has not been lost upon me. Nor am I unaware of the disastrous effect of politics on the municipal administration of Calcutta. But deeply though I deplore these failings due to causes to which we have adverted in our review of the local bodies they furnish no more reason for reserving law and order in Bengal than in the other Northern Provinces say Bihar the United Provinces or the Punjab where the inter-racial conflicts are equally common. Further all the Governments have as it were with one breath condemned the perpetuation of Dyarchy which has been found to be unworkable and this view has prevailed with my colleagues who have counselled its abolition and still they have voted for its retention in Bengal and in respect of a subject the subtle influence of which would render the transfer of other department nugatory.

336 I fear that my colleagues minds throughout our discussions have been coloured by a lurid picture of the inter-racial relations in the past. But I look ahead and trust and more than [illegible] with the assumption of joint control and [illegible] mination of the prime cause [illegible] future would not be a mere [illegible] communities will with the [illegible]

two [illegible] countries have long since understood that a man who blends his politics with religion is like a man who mixes vinegar with his wine since the two can never be combined in a country torn by the diversity of tongues and creeds in which a little free thinking is the only antidote to fanatical religiousness.

337 But whatever may be the risk of adopting the course which I regard as the only logical outcome of our view I do not think that that risk is greater than the risk which we [illegible] have to face if Bengal is singled out for the retention of Dyarchy. It is the one Province which has vied with the Central Pro[illegible] in turning out one ministry after another as a pro[illegible] Dyarchy. Can anyone realise what it might not do in [illegible] if the Dyarchy it hates so well is given the last [illegible]

338 I do not think Bengal is behind any other Province in the matter of education and experience of self government I do not think there is anything in the Bengali character to disqualify them for self government I do not think the risk we take is greater than the risk we should run if we withheld full autonomy from Bengal I therefore strongly urge that Bengal should get the same degree of autonomy as is granted to the other Provinces

V.

The All India Services in Madras

339 Our Committee has recommended that, following the principle settled by the Lee Commission that all services in the transferred field should be provincialized,[1] there is no longer any necessity for the retention of the All India Services as such, the maintenance of which and the extent to which they should be maintained must be left to the Provincial Governments in which we have recommended the transfer of the subjects now held as reserved Accordingly, our resolution to this effect applies to all the Provinces with the exception of the Madras Presidency, the exception being merely an accident, since it happened to be the first Province we had taken up for deliberation The question of these services there has been set at rest by the Madras Government's memorandum, which, I understand, has since been published For these reasons, the cogency of which is acknowledged even by those who favour the extension of these services under their present tenure, I feel that the Provinces should be able to choose their own agents for carrying out their own policy, and that it would be wrong and might lead to friction and the clogging of the machinery of government if we forced upon them an organized service amenable to extraneous authority, and which is accustomed to other traditions In any case, if our inces holds good I am treatment in this resp ed for the retention of the All India Services in Madras have informed me that if we could revise our recommendation they would extend the formula adopted for the rest of the provinces equally to Madras But apart from their concurrence I cannot defend the departure and think that Madras cannot be logically excluded from our otherwise general recommendation on the public services

Hari Singh Gour

1 Lee Commission's Report, §§ 14 17

NOTE ON THE DEPRESSED CLASSES BY RAO BAHADUR M C RAJAH M L A

The Depressed Classes in India present a definite problem in political and social evolution They are the resultants of historical forces religious economic and social They are the embodiment of exploded social ideas and the disabilities imposed on them by the original framers of Hindu polity have been aggravated by long centuries of segregation and neglect The origin of these Classes and the beginning of their woes rightly belong to the domain of historical research but their betterment, economic and educational is an imperative political problem Their class consciousness is growing stimulated partly by the sympathy of the Government and partly by the belated awakening of the Hindu social conscience Still the new forces are encountering great opposition from the hostility of orthodoxy on the one side and the inertia of ignorance on the other Every political party admits the existence of the problem and the need for special ameliorative measures

Difficulties have been raised as to who exactly constitute the 'Depressed Classes" The terms Depressed Classes and ' Backward Classes " are bandied together and not infrequently cause confusion The doubt whether a certain section came under the classification or not has often been brought out as an excuse to show there is nothing like Depressed Classes and that no such problem exists at all The first attempt to enumerate these Classes was made in the census report of 1901 and the next report (1911) showed that the classes (Untouchables) who came under this category numbered 45 millions of the total Hindu population The existence of the problem

[illegible] when the Madras Adi Dravida

istered All India Adi Dravida

l by Mr P V Soobramaniam

orated under Act XXI of 1860,

and began making periodical recommendations to Government regarding the protection of the interests of the Untouchables otherwise known as the Depressed Classes The question was first raised on the floor of the Legislature when the Hon Mr (now Sir) Dadabhoy moved a resolution in the Imperial Legislative Council in 1916 asking for a survey of the problem As a result of the resolution the Government of India circularised all the Provincial Governments and the replies of these Governments for the first time revealed the magnitude and gravity of the problem (*vide* Government of India Memorandum The Depressed Classes) Subsequent Government reports educational and political have only served to emphasise the importance of the problem Owing to the extreme backwardness of the communities and the prevalence of untouchability the education of these Classes presented special difficulties In his quinquennial review of education 1912 17 the Education Commissioner Sir Henry Sharp by grouping together those

whose educational needs presented difficulties owing to the fact of their being Untouchables arrived at a total of 31½ millions of Hindus In this classification the aborigines, the Hill tribes and the criminal tribes had been omitted The figures collected by the Franchise Committee in 1919 appointed in the wake of the Montagu Chelmsford Report, yielded a total of 42 millions comprising the group "Others" as a third Hindu group, identified by them with the Depressed Classes mentioned in para 11 of their Report and again these do not include the aborigines or the animists or the Hill tribes The Franchise Committee followed these figures in the matter of framing franchise and apportioning representation There was fresh enumeration again in the census of 1921 and the Commissioner, Mr J T Marten puts the figure at what he himself calls a "low and conservative minimum of 43 millions in British India" "We may" he adds "confidently place the numbers of these Depressed Classes all of whom are considered impure at some thing between 55 and 60 millions in India proper" This coincides with the figures of Mr J Coatman in his book "India in 1926 27" The Reforms Enquiry Committee of 1924 accepted these revised figures in paragraph 64 of their Report and the minority and the majority alike amply recognised the importance and seriousness of the question On 23rd February, 1928, Mr M R Jayakar moved a resolution in the Legislative Assembly recommending that local Governments be instructed to provide special facilities for the education of the Depressed Classes and also for opening all public services to them especially the police , and the late Lala Lajpat Rai moved an amendment thereto recommending the setting apart of a sum of a crore of rupees for affording special educational facilities for these classes The Government spokesman Mr G S Bajpai opposing the amendment for the first time attempted to lower the figure and belittle the problem Mr Bajpai took his figures from the Educational Department, of which he happened to be the Secretary, and represented that the total for British India excluding Burma and Assam was only 28½ millions The accuracy of this figure was challenged and disproved when I sent in an interpellation on 4th September, 1928 in answering which the Home Member of the Government of India estimated the total of Depressed Classes at 60 millions for India proper This coincides with the Census Commissioner Mr Marten's estimate quoted above Still the incorrect figure of 28½ millions is persisted in in the Auxiliary Education Committee's Report But that is so because the Educational Officer, who compiled the figures in respect of Mr Bajpai's figures also, happens to be the Secretary of the Auxiliary Education Committee The Secretary of the Indian Central Committee early in January, 1929, circularised the various Provincial Governments asking for the latest figures and these yielded 44½ millions This does not include the aboriginal and criminal tribes' population

A detailed examination of the figures collected by the Hartog Committee reveals two serious errors In the case of the United Provinces the figures given by the local Government show the Depressed Classes as thirteen millions But the Hartog Committee erroneously takes them at the lower and incorrect figure In the case of Assam the error is more serious The Committee have altogether denied the existence of anything like Depressed Classes in this Province The figures of the local Government enumerating the various subcastes coming under this category gives them a total of 1 55 millions Again deputations of Depressed Classes waited before the Joint Free Conference in Shillong on 4th January, 1929 and detailed their grievances

As I am writing this I have received intimation that on the 17th August 1929 the Governor of Assam has nominated for the first time a member of the Depressed Classes to the local Legislative Council In the face of this irrefutable testimony to say that there are no Depressed Classes in Assam is clearly incorrect

THE POPULATION OF THE DEPRESSED CLASSES (UNTOUCHABLES) IN MILLIONS

Provinces	Franchise Committee s figures 1919 (1)	Census figures of 1921 (2)	Reforms Enquiry Committee s figures 1924 (3)	Hartog Committee s figures 1928 (4)	Indian Central Committee s figures 1929 (5)
Madras	6 4	6 4	6 4	6 53	6 50
Bombay	6	2 8	2 8	1 46	1 47
Bengal	9 9	9 0	9 0	6 64	11 50
United Provinces	10 1	9 0	9 0	7 89	13 00
Punjab	1 7	2 8	2 8	1 70	2 80
Bihar and Orissa	9 4	8 0	8 0	2 53	5 00
Central Provinces	3 8	3 3	3 3	3 01	2 67
Assam	3	2 0	2 0	*	1 50
	42 2	43 3	43 3	29 76	44 50

*It is stated in the Hartog Report that there are practically no Untouchables in Assam (vide page 218 Table XCI of the Report of the Auxiliary Committee of the Indian Statutory Commission)

Figures under (5) have been taken from the printed list supplied by the Secretary, Indian Central Committee to the members

Without even going so far as to debate the accuracy of these figures one has only to look at the numerous social and civic disabilities (of which typical instances are furnished later) prevailing almost everywhere in India to realise the magnitude of the problem The records of the Reformed Legislative Councils are replete with evidence testifying to the undeniable existence of these hardships and debates on proposed ameliorative measures

Interpellations covering specific statutory or social disability hampering members of these classes and resolutions and bills recommending removal of general disabilities form a regular feature of every session of every Provincial Council The Rules framed under the Government of India Act make provision for special protection of their interests and enjoin upon heads of local governments the necessity for making provision for adequate representation of these classes in the Legislatures and the various Local Bodies

1 The Governor of Madras under Rule 3 of the Madras Electoral Rules is instructed to nominate ' ten to represent the following communities namely the Paraiyans Pallans Valluvans, Malas Madigas Chakkiliyans Tottiyans Cherumans and Holeyas '

2 By virtue of Rule 3 of the United Provinces Electoral Rules the Governor is instructed to nominate one to represent ' classes which in the opinion of the Governor, are Depressed Classes '

3 The Governor of Bombay is instructed to nominate two to represent classes which " in the opinion of the Governor are Depressed Classes ' (*Vide* Memorandum prepared by the Government of Bombay for submission to the Indian Statutory Commission 1928 para 387)

4 The Governor of Bengal nominates a member of the Depressed Classes (*Vide* Report on the working of the Reformed Constitution in Bengal 1921 27 para 178)

5 The Governor of the Central Provinces nominates members of the Depressed Classes and " the number of members nominated from the Depressed Classes has been raised from two to four in the third Council (*Vide* Memorandum on the working of the Reformed Government in the Central Provinces and Berar Vol I page 23)

6 The Governor of Bihar and Orissa nominates two members believed to be in sympathy with the class (Depressed Class) though not as a rule actually of that class ' —(*Vide* Memorandum for the Indian Statutory Commission on the working of the Reforms in Bihar and Orissa para 154)

The Representation of the Depressed Classes as it is at present

Legislatures	Total Population	Population of the Depressed Classes	Total number of seats at present	Seats for Depressed Classes
1 Madras	4 millions	6 50 millions	13	10
2 Bombay	16	1 47	114	2
3 Bengal	45	11 50	140	1
4 United Provinces	47	13 00	123	1
5 Punjab	20	2 80	94	Nil
6 Bihar and Orissa	33	5 00	103	2
7 Central Provinces	13	2 6	73	4
8 Assam	7	1 55	53	Nil

These facts alone furnish an overwhelming answer to those witnesses who speaking on behalf of certain Provincial Governments, sought to make out that the problem was non existent in their province

The lines of division which mark off the Depressed Classes from the rest of the Hindus are clear and unmistakable Roughly, all those Hindus who are outside the pale of the four varnas, or castes whose touch or proximity carries pollution and those whose occupations are considered unclean and impure constitute the Depressed Classes They have not the right of the King's highway, nor have they the rights for public waterways and springs They live segregated in the cheris in the Madras Presidency in bastis in the Punjab in mohalls or tolis in the United Provinces and in the pallis and paras of Bengal Social rights they have none and of civic and political rights little The catalogue could be lengthened by adding local grievances in every province But the idea of carrying pollution by touch or proximity and the denial of entry to temples or Dev Darshan constitute the G C M of the factors which make up untouchability This was also the princ
the various Census Commiss
mittee's Report dated 22nd F
mary footnotes and Census Rep

Despite the fact that there has been a steady enlargement of popular control over the present system of Government the claims of the Depressed Classes have so far not been adequately recognised In the public bodies they are inadequately represented and in the public services they are not encouraged In both the spheres the existing handicaps are heavy, and in the present low position of these classes they cannot overcome them unaided Though popular representatives were admitted into the Legislative Councils as early as 1861 no member of the Depressed Classes ever found an opportunity to serve on these Councils Though the Morley Minto Councils were so formed as to enlarge the popular element so as to constitute a non official majority still no room was found to have the Depressed Classes represented It was only in the last year of those councils that Lord Willingdon recognised their claims and nominated one member to his Council in Madras The Montagu Chelmsford Reforms for the first time made statutory provisions for the representation of their interests and enjoined upon the
Local Governments the necessity to give them a voice
in the Legislative Councils The number of seats allotted
varied in each province but in many it was not more
than one or two and in some nil In the Central
Legislature there was no member of the Depressed
Classes till I was nominated in 1927 The rightful claims of the
Depressed Classes are dealt with later Here I only indicate the
existence of the grievance In the various Local Boards these
Classes get no representation All this deprives them of making

their troubles known and demanding redress In the public services the grievance is more acute The educational and economic position of candidates from the depressed Classes makes it incumbent on the authorities that their claims should be treated preferentially Not only is there no such preference but in actual practice their so called social inferiority is brought up as a bar and results in the anomaly of even higher qualifications being neglected to make room for social prejudice A question in the Punjab Council a resolution in the United Provinces Council the reply of an Inspector General of Police to an applicant for a Deputy Superintendent s post in Assam , a District Collector s reply to an applicant for an Honorary Magistrate's post in Bombay and a recent instance of selection of [illegible] the difficulty [illegible] and furnish

Punjab Council —Question No 466 Lala [illegible]ohan Lal ' Will [illegible] state if mem[illegible] If not, does [illegible] of recruitment of police constables the members of t[illegible] Depressed Classes should also be taken ?"

The Honourable Sir Geoffrey de Montmor[illegible] ' Members of the Depressed Classes are not enrolled in the police When there is evidence that the Depressed Classes are treated on an equal footing by all sections of the community or when Government is satisfied that enrolment of members of these classes will satisfy the requirements of efficiency and be in the best interests of the composition of the service Government will be quite prepared to throw open recruitment to them provided they come up to the physical and other standards required of all recruits '

United Provinces Council —On December 17 1925 a Resolution was moved in the United Provinces Council for the removal of caste restrictions for admission to the police and other public services (*Vide* Reports on the working of the *Reformed Constitution* 1927, pages 226 227)

Assam —The following is the reply of the Inspector General of Police Assam to Mr Sonadher Das Secretary, Bania (Depressed Class) Samaj The candidate was a member of the Depressed Classes and a Master of Arts

From The Hon ble [illegible] D Herbert CA Inspector General of Police Assam

To The Secretary to the Brit[illegible]al Bania Community of Assam Proper Shillong

Dated Shillong the 23rd October 1918

SIR

With reference to your letter dated the 4th October 1918 I have the honour to inform you that while I sympathise with

the aspirations of the Assam Brittial Bania Community, I regret that so many considerations govern the appointments of Deputy Superintendents of Police at present, *e g*, the fact that suitable candidates with war service have preference, that I am unable to give any definite reply I do not, however, think that in the present conditions of Indian Society a member of a community suffering from social depression, as referred to in the letter under reply, could make a successful Deputy Superintendent of Police I, therefore recommend the candidate you refer to to press his application for appointment to some other branch of Government service

I have the honour to be
Sir
Your most obedient servant,
(Signed) D HERBERT,
Inspector General of Police, Assam

Bombay

The Collector of Khandish District, Bombay Presidency, in his reply dated 25th September, 1928 to Mr Medhi a member of the Depressed Classes who applied to him for the post of an Honorary Bench Magistrate, wrote thus —

'The Collector has every sympathy with the aspirations of the Depressed Classes and is glad to recognise and appreciate Mr Medhi s good work in the various fields of public activities but in his opinion time has not yet come when a member of the Depressed Classes can be given a seat on the bench of Magistrates and until Government makes some pronouncement favourable to the aspirations of the Depressed Classes in this Presidency he must regretfully express his inability to recommend such an appointment (*Vide* Evidence Depressed Classes Deputation Bombay)

Bengal

The following is an extract from the evidence of the Depressed Classes Deputation Bengal that appeared before the Joint Conference on the 21st January 1929 led by Mr M B Mullick, M A B L President All Bengal Namasudra Association —

'Q 76 I suppose there are a number of graduates in your community?—A There are a fair number

"Q 77 400 to 500?—A Yes

'Q 78 There are M A 's and B A s?—A Yes

'Q 79 Are there many of them in the public service?—A Only a few

"Q 80 I should like to know whether they find any difficulty in entering the provincial or subordinate services?—A Yes they do find difficulty

'Q 81 I understand as recently as January 1928 they recruited some sub registrars?—A Yes

"Q 82 And for that the Government asked the various Commissioners to send up nominations?—A Yes

"Q 83 The Commissioners in turn asked the various Collectors ?—A Yes

"Q 84 That is, qualified candidates for these posts ?—A That is so

"Q 85 In the Dacca division I understand the Commissioners sent in four nominations ?—A Yes

"Q 86 Two Hindus and two Muhammadans ?—A Yes, that is so

"Q 87 Out of these two Hindus only an M A belonged to your community ?—A To one of the Depressed Classes

"Q 88 And the other was a B A, a Kayastha ?—A Yes

"Q 89 Of the other two Muhammadans, one was an M A and the other a B A ?—A Yes

"Q 90 And out of these, two were appointed ?—A Yes

"Q 91 Although in the notification it was said that preference would be given to Backward and Depressed Classes ?—A I believe that was the notification

"Q 92 In spite of that they thought it fit to offer the appointment to the B A Kayastha, overlooking the Depressed Class M A 's claims ?—A Yes it was published in the last gazette

"Q 93 Again in June 1928, in the Dacca civil court there were a number of vacancies for clerks but they did not even care to advertise ?—A That was what we knew

"Q 94 There were a number of graduates belonging to the Depressed Classes who sent in their application for these clerkships but the son of an official who was a Matriculate was preferred ?—A That we discovered later

"Q 95 And a brother in law of the head clerk an under graduate was preferred ?—A Yes

"Q 96 And the graduates belonging to the Depressed Classes did not get a chance —A No

"Q 97 And recently about five months ago there were some appointments under the Controller of Currency in Bengal ?—A Yes and also under the Accountant General, Bengal

"Q 98 There also members of the Depressed Classes who were graduates applied for those posts ?—A They did

"Q 99 And they did not get them ?—A No although an advertisement was made and it was said in the advertisement that some appointments would be reserved for them

"Q 100 Also as regards sub registrars in Khulna, Faridpur and Jessore districts several members of the Depressed Classes graduates applied for these appointments but they were not preferred ?—A They were

nominated by the Collectors, but I do know what happened after that."

The Inspector General of Police, Bombay, when examined by the Commission said that the members of the Depressed Classes are not admitted in the Police service in the Bombay Presidency. The Inspector General of the Punjab also said that the Depressed Classes are not admitted in the police department in the Punjab.

The superstition attaching to so-called pollution results in innumerable social and civic disabilities, though these are slowly disappearing yet they are generally prevalent. The children of the Depressed Classes cannot go to the same schools. (*Vide* Memorandum submitted by B. Ram Charan, B.A., LL.B., M.L.C. (U.P.).) The members of the Depressed Classes cannot engage in occupations which would bring them into close contact with other Hindus. That bars out all possibilities of social intercourse or economic betterment. The system of forced labour or Begar is still prevalent in the Punjab and the Depressed Classes are daily being harassed by officers throughout the province. (*Vide* Memorandum, The Depressed Classes Mission, Lahore, page 2.) A Resolution was also moved in the Central Province Legislative Council for the abolition of Begar. In the lower courts Depressed Class witnesses must stand aloof when they give evidence. (*Vide* Evidence, Depressed Classes Deputation, Bombay.) No untouchable can come into any public office for the transaction of business in the villages and minor towns. He cannot enter a post office to buy a stamp or post a letter. (*Vide* Evidence, Depressed Classes Deputation, Bengal.) Hospitals maintained out of public funds have no accommodation for him. The right of using public rest houses is denied to him. (*Vide* Memorandum prepared by the Government of Bombay for submission to the Indian Statutory Commission, page 527 (9).) I am depicting no imaginary or historical grievances. Caste Hindus of Bombay led by such an enlightened and progressive leader as Sir Manmohandas Ramji protested against a resolution passed by the Corporation of Bombay abolishing the practice of compelling the Untouchable children to drink water out of different cups in the Corporation school. The Share-brokers of the city took a day off to mark their protest against the Corporation Resolution and my colleague Mr. Kikabhai Premchand is an ex-President of the Share Brokers' Association. (*Vide* "Indian Daily Mail" 19.10.28.) This happened when the Statutory Commission was sitting at Poona. Caste fury assumed a graver aspect when an Untouchable woman was discovered walking in the streets of holy Benares. The offended Hindus belaboured the poor woman most mercilessly. (*Vide* "The Aj" 26.10.27.) In a recent case in my own province an Untouchable fell with

his life for the temerity of polluting a street with his presence (Madras Mail ' weekly, 1st Aug 1929) Even to day the Madras Council is debating a bill introduced by a private member demanding that all highways be thrown open to the Depressed Classes In the United Provinces the instance was cited to us by the United Provinces Government (*vide* Report on the working of the System of Government, United Provinces of Agra and Oudh 1921 28, Vol III Addendum, page 50) of Untouchables leaving their pots near the public wells in the hope that some charitable samaritan would fill them Resolutions were moved in the Madras Council Bombay Council Central Provinces Council, and the Punjab Council to allow the members of the Depressed Classes to draw water from the public wells maintained by the Local Bodies The Untouchable children attending common school are victimised (Memorandum prepared by the Government of Bombay for submission to the Indian Statutory Commission page 528 (21)) In the Punjab there are restrictive laws and customary rules that stand in the way of the advancement of the Depressed Classes The Depressed Classes are forced to hold the lowest place in society because of certain customary rules which are enforceable in Courts of Law debarring them from purchasing lands in village communities The attention of the Government was drawn to the matter in the Punjab Legislative Council on 3rd March 1928 The result of the customary rules which have the force of law is that the Depressed Classes are unable to purchase lands or even residential sites in villages (*Vide* Memorandum submitted by the National Reforms Party Punjab page 22) The Land Alienation Act of Punjab prevents the Depressed Classes from ... leged castes notified under the Ac ... e Depressed Classes are themselve ... page 22)

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generation they have been forced to live in dirt and squalor and to grow up in ignorance and fear. Ignorant habits and insanitary surroundings make them fall an easy prey to epidemic, and their poverty exposes them to chronic famine.

It is often contended that these disabilities spring from deep rooted social prejudices and that political remedies are of little avail against them. It is asserted that legislation and administration cannot force the pace of social reform, and premature efforts in that direction often retard progress. That was true when States were organised on a limited basis and operated in a limited perspective. But the modern State, organised on democratic basis embraces every sphere of national and social activity, and as such is the most powerful engine of social reform. It not only embodies and preserves prevalent social ideas but by its credentials it is authorised to mould and direct social tendencies. Under the more advanced conditions in the Western countries it has taken upon itself the duty of caring for the old and training the young. It acts as an agency in the more equitable distribution of the national dividend. Free education, adult franchise, old age pensions and unemployment insurance bear irrefutable testimony to its solicitude towards those who would otherwise under the relentless operation of economic laws soon become the Depressed Classes of Europe. The Government in India is progressing towards that ideal, and must sooner than later face this task of levelling up. The history of the last hundred years has shown that education, transport commerce and political power have acted as solvents of age long caste prejudices and it is only by aiding the Depressed Classes to participate in an increasing measure in these activities that the stigma attaching to them could be removed. This is fully recognised in the evidence prepared by the Bombay Government where they admit "the problem of Untouchability is not merely a social one. It has an important political aspect. Owing to the prevalence of untouchability a large section of the population is denied the enjoyment of its legitimate civic rights. Untouchability which is also peculiar to the Hindus is intimately bound up with the caste system and has therefore in the minds of some people a religious basis. The untouchable or depressed classes who form about a thirteenth part of the total population of the Presidency are denied many of the ordinary civic rights and privileges." (*Vide* Memorandum prepared by the Government of Bombay for submission to the Indian Statutory Commission, 1928, page 392.)

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The general remedy that suggests itself is the immediate and total withdrawal of legal and administrative recognition to the superstition of pollution. The laws as they are administered to day uphold these superstitions and punishes the untouchables who dare to disregard them. Whenever a member of the Depressed Classes attempts to enforce his civic rights the law steps in under the guise of preserving the peace which, it fears,

would otherwise be broken In practice it amounts to legal protection to the superstition and denial of an elementary right to a member of the community But, as this aspect is more concerned with internal legal reform and not with the main constitutional re adjustment, I leave it with a mere indication In the matter of political power the position of the Depressed Classes has to be safeguarded in (a) Legislatures and (b) Public Services I have already pointed out that in Legislatures the Depressed Classes never had an opportunity of having their voice heard till Lord Willingdon nominated the first Adi Dravida member to his council in 1919 Later the number nominated was increased under the Reforms Act, and to day in most of the councils they have representatives who look after their interests The suggested reform here is increase in numbers and change in method of representation so as to be more in consonance with democratic practice and better representative of the interests concerned The change in the method is of more vital importance and demands closer attention The method hitherto followed was nomination by the Governor, advised by his Executive Councillors of either untouchables themselves or those who in the opinion of the Governor might be expected to look after their interests The defects of this method are obvious but it was first welcomed and later tolerated on the principle that the blabberer is preferable to the dumb Nomination has lived its day of usefulness and has done its part in quickening political life in the community The preference to day is for the privilege of direct election The nominated member, while he did voice the needs of his brethern bore no representative character and had not the same living touch with those whom he represented as the elected member had In the Councils he was more prone to follow the lead of those who nominated him He was not eligible for the Ministry In a predominantly elected Chamber the nominated members naturally tended to a second place True there was no legal difference in status but their views did not carry the same weight though their votes did Nominated representation was welcomed when there was none and was accepted when there was not sufficient data to demand election But the working of the Reforms during the last ten years has dem [illegible] my demand is fully borne [illegible] is one more reason why [illegible] future, and its validity from the constitutional point of view, I venture to say could be hardly questioned In the future councils according to our recommendations there is to be no nominated bloc The Chamber would consist only of elected members Also the Governor's Executive Council would not be there [illegible] ted in the Governor [illegible] on that the Governor would [illegible] his Ministers And the easiest way for the Minister would be to get his party adherents nominated, and the constitutional device meant to

British bureaucracy and Mr Bannerjea as one who advised our Sabha and the community which it represents "to enlist themselves in the German army fighting against freedom and civilization because we said in our address to Lord Chelmsford and the Rt Hon Mr Montagu that we would fight to the last drop of our blood any attempt to transfer the seat of authority in this country from British hands to the so called high caste Hindus who had been oppressing us in the past and would do so again but for the British Government are unfit to sit in judgment over any representation we may make If they continue to sit on the Committee we have no other alternative as self-respecting and loyal citizens of the British Empire than that of respectfully declining to appear before the aforesaid Committee (*vide* Appendix XV Franchise Committee Report)

But conditions have improved considerably to day The representatives of the Depressed Classes waited in deputations and gave evidence before the Joint Conference at every centre in India and demanded that a definite step in the direction of democracy must be taken It is suggested as a half way measure that nomination might be made from a panel of members suggested by Communal Associations or Electoral Colleges, but the suggestion is open to the same objections Added to them is the danger of mushroom or make believe associations suggesting their own nominees and creating confusion

would otherwise be broken. In practice it amounts to legal protection to the superstition and denial of an elementary right to a member of the community. But, as this aspect is more concerned with internal legal reform and not with the main constitutional re-adjustment, I leave it with a mere indication. In the matter of political power the position of the Depressed Classes has to be safeguarded in (a) Legislatures and (b) Public Services. I have already pointed out that in Legislatures the Depressed Classes never had an opportunity of having their voice heard till Lord Willingdon nominated the first Adi Dravida member to his council in 1919. Later the number nominated was increased under the Reforms Act and to-day in most of the councils they have representatives who look after their interests. The suggested reform here is increase in numbers and change in method of representation so as to be more in consonance with democratic practice and better representative of the interests concerned. The change in the method is of more vital importance and demands closer attention. The method hitherto followed was nomination by the Governor advised by his Executive Councillors of either untouchables themselves or those who in the opinion of the Governor might be expected to look after their interests. The defects of this method are obvious but it was first welcomed and later tolerated on the principle that the blabberer is preferable to the dumb. Nomination has lived its day of usefulness and has done its part in quickening political life in the community. The preference to-day is for the privilege of direct election. The nominated member while he did voice the needs of his brethern bore no representative character and had not the same living touch with those whom he represented as the elected member had. In the Councils he was more prone to follow the lead of those who nominated him. He was not eligible for the Ministry. In a predominantly elected Chamber the nominated members naturally tended to a second place. True there was no legal difference in status but their views did not carry the same weight though their votes did. Nominated representation was welcomed when there was none and was accepted when there was not sufficient data to demand election. But the working of the Reforms during the last ten years has demonstrated the future possibilities and my demand is fully borne out by the conditions of to-day. There is one more reason why nomination must be abolished in the future and its validity from the constitutional point of view, I venture to say, could be hardly questioned. In the future councils according to our recommendations there is to be no nominated bloc. The Chamber would consist only of elected members. Also the Governor's Executive Council would not be the [illegible] ted in the Governor acting [illegible] that the Governor would [illegible] is Ministers. And the eas[illegible] to get his party adherents nominated and the constitutional device meant to

protect the weaker elements would only serve as a means of co-option for the largest group in the Council to the detriment of the community and Government alike. The privilege of nomination vested in the hands of a political group would be nothing less than a menace. In recommending the system of nomination the statesmen of the day were not blind to its defects. They admitted the existence of these defects, but their only plea was that they had no alternative. "In assigning the number of seats in each Council to which non official representatives may be appointed by nomination we have been guided by the existence of the important classes or interests which could not be expected to obtain representation by any practicable system of election. Thus we have been driven to the expedient of nomination for the representation of the Depressed Classes because in no case did we find it possible to provide an electorate on any satisfactory system of franchise." (*vide* para 24 Franchise Committee Report.) That was what the Franchise Committee found in 1919. The Joint Parliamentary Committee had the same difficulty. The Depressed Classes appeared before Mr Montagu, but refused to go before the Franchise Committee, and said—"We would appear before the Franchise Committee provided the two persons Messrs V S Sreenivasa Sastriar and Surendra Nath Bannerjee to whose presence on the Committee we have already objected, are removed from the Committee during our appearance before it. We have already stated that Mr Sreenivasa Sastriar, as a champion and apologist of Brahmin oligarchy in preference to British bureaucracy and Mr Bannerjee as one who advised our Sabha and the community which it represents to enlist themselves in the German army fighting against freedom and civilization because we said in our address to Lord Chelmsford and the Rt Hon Mr Montagu that we will fight to the last drop of our blood any attempt to transfer the seat of authority in this country from British hands to the so called high caste Hindus who had been oppressing us in the past and would do so again but for the British Government are unfit to sit in judgment over any representation we may make. If they continue to sit on the Committee we have no other alternative as self respecting and loyal citizens of the British Empire than that of respectfully declining to appear before the aforesaid Committee." (*vide* Appendix XV Franchise Committee Report.)

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A third alternative would be reservation of seats in Joint Electorates It undoubtedly marks an advance on the present position but it is not altogether without objectionable features In the total electorate the proportion of Depressed Class ot rs would be small And the fear is not unnaturally entertained that the candidates who would fill the reserved seats would in reality be the nominees of the majority of the electorate The constituencies being predominantly caste Hindu no one ould hope to get elected who did not pander to or at least respect caste prejudices Again a Depressed Class member elected on the strength of caste Hindu votes would not be beholden to his community There is thus the danger of the seats being occu pied by the dummies of the higher castes Such a result would largely nullify the power granted to the Depressed Classes in the shape of the franchise Joint electorates if they are to work successfully require broadmindedness on the part of the majority community It is my view that to-day such a favourable atmo sphere does not exist

The following evidence of the Depressed Classes Deputation before the Joint Conference in Bengal on January 21 t 1929 will clear the position —

> Q 201 Is it not a fact that there are half a dozen De pressed Classes men who are members of the Provincial Council here in Bengal ?—A No we have one nominated and two elected only and those two came in with the other people
>
> Q 202 Are not those two helping you ?—A No not in the least
>
> Q 203 Why ?—A Because they came in with the caste Hindus
>
> Q 204 You mean because they came into the Council with the support of the caste Hindus ?—A Yes
>
> 205 And therefore they are subservient to the caste Hindus there ?—A Yes
>
> Q 206 And they are not in a position to help you ?—A Not at all

The creation of Separate Electorates is the only other means which can ensure direct election and at the same time secure adequate protection Objections both theoretical and practical are raised against the demand for separate electorates But on closer examination they could be found to be not insurmountable and since the demand for it is only for a temporary period even these objections lose their validity Theoretically it is pointed out that separate electorates tend to perpetuate differ ences and hinder the growth of nationalism There is weight in the objection but it is more than counterbalanced by the advantages secured under it Separate electorates are not new to the Indian constitution The Muslims the Sikhs Indian Christians Anglo Indians and Europeans possess them and

they have given these communities a sense of security which alone has made all talk of advance possible. The peculiar position of the Depressed Classes to-day demands that their interests have to be protected against their Hindu co-religionists. In a common electorate where the voters were actuated by common interests division will follow opinions about the merits of the issues involved. But where conflict of interests is involved the voting will go by interests. When the existence of the conflict is accepted it is clear that minority interests will never succeed in getting representation. The voter who happened to belong to the minority community would feel that his vote was being thrown away. He would even refuse to exercise his franchise when he is certain that the die is already loaded against him. The resulting insecurity will not conduce to communal harmony. Where he is afforded the protection of separate electorates this danger disappears. He is sure that whoever wins the election has been elected on the community's own votes and not by the votes of the caste Hindus. The vote would thus secure a value in his eye and would give him a sense of security. Political education would then be more rapid and the creation of sufficient self confidence in the community would soon render the artificial protection unnecessary. The practical objections are less weighty. It is said that the creation of separate electorates is an impossible task as it is not possible to demarcate the Depressed Classes exactly in each province. This is hardly convincing. The existence of these classes is proved beyond doubt. All that is necessary is that the Provincial Governments should prepare the complete lists of classes who according to local custom and usage come under the category of Untouchables and carve out constituencies for them. Such lists have already been prepared by the Governments in furnishing the information asked for by the late Lala Lajpat Rai. A suggestion was made that if it was known that Depressed Classes were being given special representation then there would be a scramble among some of the higher classes to get listed under the term "Depressed". This can hardly be so. It is inconceivable that for the sake of a vote any caste Hindu will be anxious to enrol himself in the Depressed Classes Register. Untouchables live apart from others and there is no possibility of mixing the Untouchable and the Touchable. The next objection is that there are not sufficient voters and that even the small number is so scattered as to make the task of carving out constituencies well nigh impossible. Full data concerning the voters and how they are scattered has not been made available by all the Governments. The Madras Government however have given the whole data and an examination of the same shows that the difficulty is only imaginary.

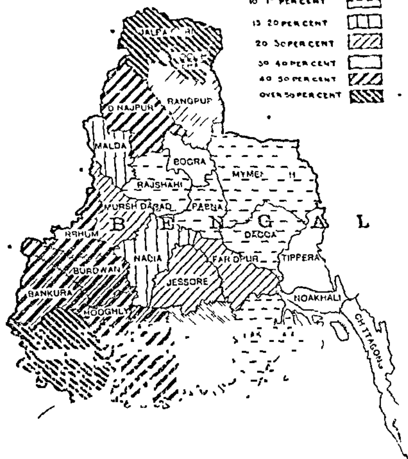
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> Q 203 Why ?—A Because they came in with the caste Hindus
>
> Q 204 You mean because they came into the Council with the support of the caste Hindus ?—A Yes
>
> 205 And therefore they are subservient to the caste Hindus there ?—A Yes
>
> Q 206 And they are not in a position to help you ?—A Not at all

The creation of Separate Electorates is the only other means which can ensure direct election and at the same time secure adequate protection Objections both theoretical and practical are raised against the demand for separate electorates But on closer examination they could be found to be not insurmountable and since the demand for it is only for a temporary period even these objections lose their validity Theoretically it is pointed out that separate electorates tend to perpetuate differences and hinder the growth of nationalism There is weight in the objection but it is more than counterbalanced by the advantages secured under it Separate electorates are not new to the Indian constitution The Muslims the Sikhs Indian Christians Anglo Indians and Europeans possess them and



This shows the concentration or the density of the Depressed Classes population in the various Districts or Divisions of Bengal and the map gives a very clear idea as to the formation of Separate Constituencies for the Depressed Classes in Bengal In the Committee I proposed Separate Electorates for the Depressed Classes in Bengal Four members of the Committee voted for Separate Electorates and the other four voted against it

In this connection let me quote what the Minority Report of the Reforms Enquiry Committee signed by Sir Tej Bahadur

Sapru, Sir P S Sivasawamy Iyer, Mr M A Jinnah and Dr. R P Paranjpye says on this question It says —

> "As regards the representation of the Depressed and working classes, we are of the opinion that the correct principle to follow would be to lower the franchise so as to give them a chance, through the open door of election in general electorates, but where practical considerations point to a different conclusion, we would suggest that for the next few years only special constituencies might be formed for them" (Report of the Reforms Enquiry Committee—page 180 (c))

In finally deciding this question, our Committee have recommended Separate Electorates in the Madras Presidency for ten years and Reservation of seats in Joint Electorates in the other provinces I wanted separate electorates for ten years in all provinces My colleagues were more impressed with the objections against the proposal but in the case of Madras three reasons seem to have induced them to give in The Government of Madras themselves had admitted that separate constituencies were possible in certain instances, there is a sufficiently large number of voters and the carving out of the necessary constituencies also has been shown to be possible Finally, they were agreed that the caste differences were most acute in the Southern Presidency and that some protection (as is afforded by separate electorates) was necessary There can be little doubt that a common electoral roll should be the ideal and that it must be reached as early as possible I hold that separate electorates for a limited period will give the necessary political education and self confidence to enable the weaker elements to come into the common roll of their own consent It is not the aim of the Depressed Classes to develop separateness of interests, on the other hand, they wish to lose their sense of separateness It is really in the hands of the caste Hindu electors as to how long the Depressed Classes would wish to claim protection If the working of joint electorates in the other provinces shows that they in no way jeopardise the interests of the Depressed Classes that would quicken the abandonment of separate electorates If, on the other hand, the fears that the Untouchables would be swamped proves true, then the protection afforded to them in Madras would have to be extended to the other provinces

* *

The Representation of the Depressed Classes as recommended by the Indian Central Committee.

No 1/11	Legislatures	Total Population	Population of Depressed Classes	Total Number of Seats allotted	Total Number of Seats for the Depressed Classes
1	Madras	42 millions	6½ millions	150	14
2	Bombay	16 "	1½ "	114	8*
3	Bengal	45	11½	200	8
4	United Provinces	47 "	13 "	182	10
	U P Second Chamber			60	2
5	Punjab	20 "	2½	150	0
6	Bihar and Orissa	33	5	150	6
7	Central Provinces	12 "	2½ "	120	8
8	Assam	7 "	1½ "	75	9†
9	Burma				
10	N W Frontier				
11	Central Legislative Assembly	246 "	44½ "	300	12

* Calculated on the population basis

† Includes seats for the backward classes and the indigenous primitive races

Next to the question of electorates is the question of franchise Owing to their low economic condition and their illiteracy the voting ratio of the Depressed Classes is extremely small in proportion to their population ratio In the province of Madras their population is six and a half millions and the number of voters is 56,756

There is no reason to believe that the position of the Depressed Classes in the other provinces is above that in Madras and on that assumption we could see how little political power they possess The need therefore is to lower the franchise The lowering of the franchise would not only add to the number of voters but also increase the voting ratio The Committee have at present recommended doubling the electorate but the process of enlarging the electorate must be carried on till it embraces the whole adult population in the country both male and female

The position in regard to the Public Services also calls for immediate remedies The real nature of the grievances which the Depressed Class candidates suffer from I have already indicated While their present position entitles them to preferential treatment their actual experience has been the other way Even when possessing the necessary qualifications their claims have been overlooked because of the superstition of Untouchability Under the guise of administrative convenience, departmental heads in the various provinces have not hesitated to nullify section 96 of the Government of India Act 1919 that "no native of British India nor any subject of His Majesty resident

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therein shall by reason only of his religion place of birth, descent colour or any of them be disabled from holding any office under the Crown in India and the assurance contained in the Queen's proclamation that no person shall be disqualified from any post by reason of his birth This should not be permitted to continue any longer and I trust that the Fundamental Rights declaration we are recommending shall be fully observed and guarantee the members of the Depressed Classes the enjoyment of their legitimate civic and political rights The fact that social prejudice exists should not serve as an excuse to brush aside their claims Efficiency cannot be overlooked but to admit the claims of social prejudice is downright reactionarism Government service in India carries a dignity unknown in the West and authority invests it with a prestige which acts as a powerful antidote against social prejudice A Depressed Class lawyer or doctor could be boycotted and driven out of the profession by a concerted campaign but a Depressed Class Deputy Collector or Police Superintendent cannot be got rid of so easily His position and opportunities of service will largely contribute to the disappearance of untouchability in the circle in which he moves In the general campaign against this evil this aid cannot be overlooked The Public Services Commission with the Central Government as also with the various Provincial Governments must take these factors into consideration in their task of recruiting for the Services The Commissions themselves must contain members of the Depressed Classes who could see the claims of the community where properly safeguarded By way of administrative measures Government could carry through much ameliorative work In the matter of education sanitation and medical relief facilities should be provided in the shape of scholarships and special grants Government should sternly discourage the idea of segregation in schools and should withdraw recognition from such schools as recognise untouchability Village Co operative Societies and Panchayats as well as the various Local Boards and Municipal Councils must be compelled to make adequate provision for the representation o the Depressed Classes Remembering that the Depressed Clas are mostly identified with agriculture steps must be taken t ensure them fair economic conditions Fixity of tenure and fair living wage must be guaranteed by law and the necessa legislation should be taken in hand without delay in the vario provinces Many of these Classes contain fine material for t Army and a liberal recruitment from them would consider enhance the prestige of the community and also relieve the pr sure on agricultural labour Finally I would urge that in ev future investigation political or economic the Depressed Cl should be properly represented In the past their claims been persistently overlooked The various Commissions Committees in recent years did not number any Untouch among their members But when the present Statutory (mis ion was constituted Lord Birkenhead the then Secr

of State for India explaining the difficulties in the way of appointing Indians on the Commission pointed out the various interests that had to be represented and mentioned specially the Depressed Classes when he said "Let me take another case of the depressed classes. There is in India a vast population, even in relation to the number with which we are dealing, a population of 60,000,000 people in India of the depressed classes. Their condition is not quite as terrible, not quite as poignant as it has been in the past but it is still terrible and poignant. They are repelled from all social intercourse. If they come between the gracious light of the sun and one who despises them the sun is disfigured for that man for they cannot drink at the public water supply; they must make diversions of miles in order to satisfy their thirst and they are tragically known and they have been known for generations as Untouchables. There are 60,000,000 of them in India. Am I to have a representative of them upon this Commission? Never, never would I form a Commission nor would any one in a democratic country nor would my friends opposite recommend it, from which you excluded a member of this class which more than any other, requires representation, if you are indeed to put the matter to a mixed jury of the kind which I am indicating." (Speech in the House of Lords on the 24th November 1927). The thanks of the community are due to His Excellency Lord Irwin for the watchful interest he has shown in getting them representation in the present Committee. The value of representation on such investigatory Committees could hardly be over-rated. My own personal experience on the Committee has shown that I have only to make known the facts and state my view to secure sympathetic recognition at the hands of most of my colleagues. The presence of a minority representative on a committee even where it does not succeed in securing all claims prevents much unintentional injustice being done by making known the true position. The question of communal harmony in a country like India which is so sharply divided is so important that I think that every effort must be concentrated in securing it. I should even venture to recommend that one of the Ministers of the future must make it his special concern and devote his activities to ensure communal justice.

The peaceful progress of the Untouchable Classes is a *sine qua non* of the orderly development of Indian Nationalism. Paradoxically as it may sound the aim of the Depressed Classes and those working for their future should be their abolition. They are an excretion of Hindu Society and they must aim at becoming one with it. The ideal should be to become not merely an integral part of it but to become an indistinguishable part. Indeed the restoration of civic and political rights in a measure is vouchsafed to them by alien religious (European) missionaries but conversion can never be and never ought to be a matter of politics. Recent research has indicated that Untouchability has but shadowy support in ancient Hindu scriptures and that its

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The following resolutions passed by the Hindu Maha Sabha at its session in Jubbulpore in April 1928 are a clear indication of the awakening of the Hindu social conscience —

"1 This Hindu Maha Sabha declares that the so called Untouchables have equal rights with other Hindus to study in public schools to take water from public wells and other sources of drinking water to sit with others in public meetings and to walk on public roads The Maha Sabha calls upon all Hindus to remove such restrictions as may be existing anywhere at present in the way of the so called Untouchable Hindus exercising these rights

"2 This Maha Sabha declares that the so called Untouchables are fully entitled to have Dev Darshan and the Maha Sabha calls upon all Hindus in general and all Hindu Sabhas in particular to provide the same facilities for Dev Darshan to them as are enjoyed at present by other Hindus

"3 This Maha Sabha calls upon Purohits (Priests), barbers and washermen to offer their services to the so called Untouchables also

"4 This Hindu Maha Sabha is of opinion that every Hindu to whatever caste he may belong has equal social and political rights

"5 This Maha Sabha appeals to all Municipal Boards to provide healthy quarters to the so called Untouchables, especially the sweepers and directs the local branches of the Hindu Maha Sabha to draw special attention of their Local Boards towards this matter

"6 This Maha Sabha looks upon the practice of nomination of the representatives of the Depressed Classes by the Government to the Local Bodies Provincial Councils and the Assembly as most harmful and injurious to the true interests of the country and considers that this practice will become a source of creating a great gulf in the near future between other Hindus and the so called Untouchable Classes In the opinion of the Maha Sabha the right course to stop this practice is to put forward and back proper candidates belonging to the so called Untouchable Classes to the elected bodies named above

But no amount of outside help or sympathy can help the Depressed classes if they did not possess within themselves the requisites for development The necessary requisites they do possess and their recent activities show that the spirit of progress though crippled is not crushed out of them Wherever given an opportunity representatives of the Depressed Classes have always acquitted themselves with credit and have proved worthy champions of their community's progress "During my long service I have seen a great advance among the Depressed Classes an advance to my mind greater than has been made by any other community within the same

strength lies in observance and the latter day smritis Now that the recognition has come that Untouchability is a blot on Hinduism it must be the work of every one concerned in the welfare of the Depressed Classes to spread and strengthen the idea Whatever could be done by legislation or administrative measures to remove the false idea about the sanctity of the custom will help in the regeneration of these Classes First attempts at reclamation of the Depressed Classes were made by the European Christian Missionaries Though Untouchability is as old as Hinduism no protestants ever arose in that fold to denounce its evil effects A faint attempt seems to have been made when the Vaishnavite reformer Sri Ramanuja sought to recruit his disciples from these Classes also but the attempt died with him The majority of Hindus realised the enormity of the custom only when they saw what a handicap the existence of the Classes was in the path of democratic self government British administrators have all along been struck with the peculiar disabilities of these Untouchables and had been doing their best to ameliorate their sufferings But Governments have always to look to the preservation of peace and no great measure of reform could be enforced since caste prejudices were strong More and more as democracy was accepted as the political idea the various political parties in the country began to display an active interest in the amelioration of the Depressed Classes Individual social reformers had been ploughing their lonely furrows but it was only with the growing interest taken by the political parties desire for reform became general When the Non Brahmin Party was started in 1917 Dr T M Nair placed the removal of Untouchability in the forefront of his political programme Later under the inspiration of Mahatma Gandhi the Congress took up the question and though there has been little in the shape of practical achievement there is no doubt the propaganda carried on has made progress in the future easier A most hopeful sign is the practical unanimity with which educated Hindu India has come to condemn the practice Hindu leaders like the late Lala Lajpat Rai and Pandit Madan Mohan Malaviya have thrown their weight on the side of reform Pandit Motilal Nehru recognises in his All Parties Conference Report 'that the Hindus are chiefly responsible for this suppression of a large class And Sir Tej Bahadur Sapru once aptly remarked I do say what is my most sincere conviction that unless you are able to solve your own social problems about the Depressed Classes and the Untouchables I do not see any real prospect for real genuine constitutional advance and any constitution that you may get will certainly not arouse any interest in me because I do feel howsoever good howsoever perfect howsoever ideal your constitution may be unless you have got the support of the minorities and unless you command the confidence of those whom in your vanity you may describe as Depressed Classes your constitution will not be worth a day's purchase

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period Your education is increasing rapidly," said Sir F Sly, the Governor of Central Provinces to the Depressed Classes Deputation in 1924 The masses themselves are neither inert nor incapable of progress It is true they are not educated in the conventional sense and are not literate But within the limits afforded to them they display wonderful native shrewdness and capacity for culture India has not yet entered the era of industrialised agriculture, but observers have always noted the unlettered Indian peasants' (Depressed Classes) cleverness in the science of the seed, soil and seasons Proper opportunities for education and acquaintance with modern machinery will improve the peasants' usefulness and ensure their prosperity Nor is theirs a tradition of illiteracy from times immemorial Great poets and Saints have sprung from among them and enriched our literature and our heritage of song In the foremost rank of Tamil poets stand Valluvar, Kapilar and the poetess Auvvai—all born

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Chokha Mela of Maharastra and Thakur of Bengal represent the tradition of devotion and learning in the North In the limited sphere made possible to them the young men of these communities have acquired literary education, and to day there is a sizable body of educated young men all over the country who form the nucleus of future progress While the possibilities of orderly future development are indeed immense at the same time the danger of obstructing their progress cannot be overlooked The Depressed Classes of India constitute what in modern political parlance is called the "proletariat," the class which labours with

erywhere in India the ... only to hand over the pro ... of wages has not yet gone out of vogue in India and what the tiller gets is just what would keep the soul in the body The questions which the poet addressed to the workers "Wherefore do you plough? Wherefore do you sow?" can be addressed and addressed with deadly effect to the Depressed Classes in India Denied fair living wage,

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in violent revolution and in the wiping out of the *ancient regime* By instinct and tradition the Depressed Classes are bound to peaceful pursuits Hope has been reborn into them to day and they have acquired new ambitions Political and social conditions must be readjusted to accommodate their legitimate aspirations And it is the task of the statesmen of the future to guarantee them ways and means of peaceful uplift

M C RAJAH

London

30th September, 1929

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government But I am convinced that there is far less risk in boldly advancing towards the goal marked out for us than in temporary expedients which satisfy nobody and lead nowhere, that the surest means of establishing political peace and contentment in India lie in establishing at once in the fullest possible manner real and effective responsibility, in the confidence that it will rally all the best elements in the country to the government and induce wisdom in the exercise of these powers from the very obligations which they involve Turning from the Provincial to the Central Government my proposals involve the establishment of a very wide degree of responsibility under conditions securing the safety of the majestic fabric of the administration covering every branch of the administration except Defence Foreign Affairs and the Political Relations with the Indian States where for special reasons temporary measures are needed to meet present difficulties but these reservations should be *temporary* only and these branches of the administration should in course of time pass under the control of the legislatures

II —The Provincial Governments

The goal at which we are aiming is the establishment of full provincial autonomy and responsibility Therefore I recommend that the distinction between "Reserved" and "Transferred" subjects should be completely abolished There should be a homogeneous and unitary government entirely responsible under the Governor for the whole provincial administration No reservations whatsoever should be maintained and the department of Law and Order should pass under the control of Ministers and through Ministers to the Legislative Councils in common with the other branches of the administration Responsible government without responsibility for law and order would be a contradiction in terms

I quite recognise the fundamental importance of this *function* of government The rule of law is the most cherished possession of free peoples Unless the King s writ runs without hesitation throughout the length and breadth of the land there must be a rule of "no law" which would be fatal to our liberties I quite recognise that at a time like this when communal feeling is so deplorably rife and when Labour is being driven into violent courses under the instigation of foreign communists and when our provincial legislatures will be new to full responsibility certain apprehensions are entertained lest this burden should be too heavy for our Provinces firmly to bear I do not hold this view neither do the Governments of Bombay and Madras nor of the Government of the Punjab (with certain modifications) nor do all the Members of the Associated Chambers of Commerce of India and Ceylon

I recommend that this policy should be made of general application throughout India It has been suggested that whilst

some Provinces are ripe for this responsibility, there are others where special circumstances make it desirable to reserve Law and Order for the present If, owing to local conditions any Province should feel that it is undesirable immediately to transfer Law and Order the wishes of that Province should be respected and Law and Order "reserved" for the time being But I wish to emphasise that if and when this course is followed, it should be an individual and temporary expedient to meet special and transient conditions My view is that true responsibility and stability are most likely to be ensured where the sense of responsibility is fullest, and that can only be gained where such an essential function of government as the preservation of Law and Order is under popular control Moreover, any marked differentiation between province and province is bound to produce jealousy, I cannot think that any province will be long content to rest under the stigma that it is not ready to shoulder a burden which is confidently borne by its neighbours

If any is anxious lest in Provinces where there is a Hindu majority, or a Moslem majority, the rights of the minority whichever it may happen to be will be insecure with this transfer of Law and Order to popular control my answer is that with responsibility fully conferred under the conditions which I shall outline, there must inevitably grow up an increasing sense of the imperative necessity of the impartial administration of justice in the interests of the whole community After all, Hindus and Moslems alike are Indians both vitally concerned in the peace and prosperity of the land in which they dwell Their real interests apart from gusts of communal passion are identical Therefore I cannot agree that such an apprehension where it may exist should divert us from the path we are resolved to tread or weigh with us in the final recommendations which we are making

But I recommend that the transfer of Law and Order should be accompanied by two conditions essential to secure the stability we have in view they are the placing of the judiciary under the control of the High Courts and the appointment of a Head of the Police force from the All India Services to assist the Minister in charge of this portfolio

The complete independence of the judiciary from any possibility of any political control or bias is the hallmark of a constitutional State My recommendation is that the Minister for Law and Order should be freed from the control of the judiciary which should be vested in the jurisdiction of the High Courts, and through them be made directly responsible to the Crown To the High Courts should be entrusted the full administration of the judicial services including the District and Sessions Judges the Sub Judges and the Courts of Small Causes or in effect the whole of the judiciary throughout the provinces This will definitely secure that the administration of law cannot be affected by any political complexion of the

government But I am convinced that there is far less risk in boldly advancing towards the goal marked out for us than in temporary expedients which satisfy nobody and lead nowhere, that the surest means of on- tentment in India lie lest possible manner real on fidence that it will rally al to the government and induce wisdom in the exercise of these powers from the very obligations which they involve Turning from the Provincial to the Central Government my proposals involve the establishment of a very wide degree of responsibility under conditions securing the safety of the majestic fabric of the administration covering every branch of the administration except Defence Foreign Affairs and the Political Relations with the Indian States where for special reasons temporary measures are needed to meet present difficulties but these reservations should be temporary only and these branches of the administration should in course of time pass under the control of the legislatures

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Legislative Council or of the Minister in charge of Law and Order and will guarantee that complete independence of the judiciary which is essential if confidence in its impartiality is everywhere to be felt

I also recommend that the heads of the Provincial Police Force should be members of the All India Services because that will guarantee their complete freedom from any trace of Provincial particularism or communalism and bring to the control of the Department the wide official outlook which comes from membership of and experience in the superior service It has been argued that the transfer of Law and Order will be incomplete even a sham if the Minister in charge is to work through an officer of this calibre I cannot agree The tradition of the All India Services is one of complete loyalty to those set in authority over them and I have no doubt that the Heads of the Police so appointed will be fully loyal to the Government and the Ministers they serve The danger of encroaching on the authority of the Minister is illusory and the advantages of securing the freedom of the Police from any suspicion of communal bias are so great that this measure should be one of the conditions of the general transfer of Law and Order which I recommend

Nor should it in any circumstances be circumscribed as proposed in Bengal by the appointment of a small Advisory Committee to work with a Minister in charge of this important subject The administration of Law and Order is an essential function of Government and cannot be qualified by or referred to any subordinate outside authority The establishment of such an authority would weaken and not strengthen the hands of the Minister in charge in cases of emergency it would paralyse his action when effective measures were imperatively called for and it is essential in my view that the Minister of Law and Order should have full and unqualified responsibility in his own Department

Neither can I agree with the recommendation of the committee appointed by the Bombay Legislative Council that the time is not yet ripe for the transference of Law and Order to the control of Ministers in the Bombay Presidency Admittedly the problems raised by the Hindu Moslem feuds present great difficulties but they should be faced and the Legislative Council of the Bombay Presidency is as well if not better, equipped to face them than any other The Presidency contains the largest commercial community and one of the wealthiest commercial cities in the Indian Empire Its population comprises a large body of people of high intelligence trained in political affairs Moreover the City of Bombay is the most cosmopolitan in India and in my opinion it is essential that the Legislative Council assume the administration of Law and Order immediately There is no risk in it doing so if the transference is accompanied by the conditions I have outlined

The Franchise and the Electorates.

The question of the franchise is of fundamental importance It is from the electorate that a constitutional government draws the strength it possesses and the authority it wields I am of opinion that no case has been made out for the extension of the franchise at present and that the balance of argument is against it Under the system of administration proposed greater responsibilities will devolve upon the government than ever before and it is imperative that the electorate shall be capable of understanding the value and use of the vote

All experience goes to show that the extension of the franchise should keep pace with but not go ahead of the spread of education and the development of political knowledge In Great Britain it was a very gradual process covering a long period of time In 1832 only 3 per cent of the population were enfranchised, 9 per cent in 1868 and 16 per cent in 1884 Since the introduction of the Reforms in India there has been no such change in the educational knowledge economic conditions and political experience of the people as would make it desirable to lower the franchise Even in the Bombay Presidency it is calculated that only two thirds of the present electorate are literate If the franchise were still further lowered it would inevitably mean the transfer of power to the illiterate and the inexperienced and would tend to exclude from the Legislature men with a sense of responsibility and experience of administration It must be remembered in this connection that certain classes unfavourably placed in the present franchise scheme are to have seats reserved for them so that their interests will be in no danger of being neglected To my mind the franchise should remain substantially as at present which roughly speaking gives the vote to 6 4 per cent of the adult population of British India

I am strongly opposed to giving the Provincial Legislative Councils power to alter the franchise until the expiration of a stated period of time more particularly because I do not propose the establishment of Second Chambers in any Province This limitation of their powers would probably be welcomed by them in the present disturbed state of politics as it would relieve them of the onus of resisting any popular but unconsidered demand An examination of all the evidence placed before the Committee has given me the impression that none of the various Provinces is wholeheartedly in favour of the extension of the franchise at present and those who propose it do so with misgiving The proposal to double the electorate is as far as most of them have gone and even that might not have been put forward without the accompaniment of Second Chambers

The Legislative Councils should however, be empowered to increase the franchise by not more than one fourth of the adult population at the expiry of each two terms of their existence,

providing that the present qualifications for candidates is not lowered The extension of education should make this franchise proportionate to the number of educated people in India and would permit of adult suffrage at the end of eight terms of the new Councils if desired The new Indian Governments with their vastly increased responsibilities can in my opinion be much more securely based on the intelligence and experience of the few than on the illiteracy and inexperience of the many

Indirect Elections

I am opposed to the principle of indirect elections, at least in the Provinces The educative value of the vote is of great importance and direct elections awaken a political consciousness and compel the people to organise for political purposes When the constituencies are large and the elections direct candidates can be selected on their merits If a secondary electorate through electoral colleges were introduced representatives would be selected for their local influence the members collectively would be guided by personal rather than political considerations , and a much greater opportunity would be given for graft In a country where there are divisions like caste or communities there is the possibility in small constituencies of a wide political outlook being lost in a parochial or communal feeling If electoral colleges were established influences other than political would be likely to sway the electors and there would be a slackening of interest in political questions Electoral colleges also prevent the emergence of well organised political parties as in England and the creation of such parties is in my opinion essential to the firm establishment of responsible government Elections should therefore be direct as at present

Qualification of Members

I recommend that the residential qualification for members should be removed as it has not resulted in the return of the best men from the districts The leading men in the large cities are drawn from the districts and many of them retain homes in their own area and exercise great power and influence there There is no reason why such men fully qualified to contribute to the successful working of the constitution should be deprived of the opportunity of representing their native district because they have removed elsewhere for business or other reasons The argument that they would not be in touch with the needs of the mofussil is not sound Owing to the structure of the social system in India the man who migrates to a presidency town has to maintain constant touch with his own people and his own district and in any case a candidate who sought to represent a constituency would be obliged to nurse it and keep in contact with it In England candidates who are defeated in one constituency can seek a seat elsewhere and it has been found a useful and convenient practice It will be

impossible to establish this wholesome usage in India unless the residential qualification is removed

Joint versus Communal Electorates

Bound up with the question of the franchise is the nature of the constituencies In India electorates are of two kinds—communal and general The former were established for the protection of the interests real or supposed of particular classes

It is my emphatic opinion that joint electorates should be universally established *In no circumstances whatever am I prepared to agree to the perpetuation of communal electorates, either for Mahommedans or Europeans or any other body or to any extension of Communal electorates at the present stage*

Perhaps the most distressing feature of our political development since 1921 has been the growth of communal jealousy and consequent communal trouble There runs through Indian Society to day a series of cleavages—of origin race and caste—which constantly threaten its stability The two communities, Mahommedan and Hindu are in a state of perpetual opposition which blazes periodically into actual hostilities The rivalry has assumed grievous proportions in recent years The political agreement for the division of power known as the Lucknow Pact of 1916 put a certain check on this rivalry but since the appointment of the Simon Commission the struggle has been intensified and has developed into a race for power It is difficult to say to what extent these exhibitions of communal jealousy have been natural and spontaneous and to what extent they have been worked up by the more irresponsible section of the Indian Press In any case they cannot be ignored

An extended trial of communal electorates has done nothing to diminish friction Originally created for the protection of minorities these separate electorates have become a menace to the State They hinder national development by preventing the formation of a national consciousness They are the negation of responsible government Minorities protected by communal electorates fast become privileged caste with interests diverse from those of the people as a whole Whether formed for religious racial cultural or historical reasons they foster a narrow outlook Members of these protected minorities settle into satisfied security They need make no effort towards political compromise nor can they be spurred to national endeavour Their divided allegiance is fatal to the interests of India as a nation

Separate electorates have done nothing to mitigate communal suspicion The Mahommedans fear that the Hindus will thrust their nominees upon them under any system of joint electorates It would be equally true to say that the Mahommedans will in such conditions impose their nominees upon the Hindus Such

fears are groundless I am convinced that once joint electorates are established it will be found that, as in England, an elected member will consider himself the representative of *all* his constituents whatever their race or religion There will be a rapid awakening of political intelligence and these petty suspicions will disappear There are over 70 million Mahommedans in India It is idle to suppose that a great nation like India can flourish unless religious tolerance is learned, it will be impossible in practice to override, or to neglect, the just interests of such a great community as the Mahommedans

We are, however, aiming at political contentment, progress and security, and I recognise that if a joint electorate is forced on the Mahommedans, and if an overwhelming majority of them are against it, this may render the working of the new Government difficult As it is desirable to mobilise behind the constitution the widest possible measure of public support, I am for this purpose only, prepared to accept modified communal electorates, on certain conditions That is to say, I agree to retain the separate *electorates for a period of five years*, if it is provided by statute that, at the end of that period the joint electorates come automatically and universally into force In other words, in order to satisfy the apprehension of the Mahommedan community, they will retain communal representation on the present scale all over the country for five years after which period they will be allocated a reservation of seats on a population basis in the general electorate with absolute freedom to offer themselves as candidates for seats in excess of that number If however the Mahommedans are prepared to accept representation on a population basis instead of the present scale, I agree to the extension of the communal electorate for ten years after which it will be merged in the general electorate on the principles set out above The same principle applies, of course, to the Hindus in Provinces where they are in a minority

I am entirely opposed to the proposal that Mahommedan seats in the general electorate shall be hedged in by artificial and unworkable conditions, such as some which have been put before us The suggestion that no Mahommedan candidate standing in the general electorate should be declared to have been duly elected *unless he secures at least ninety per cent of the Mahommedan* votes polled, and to preserve a fictitious appearance of equality, that no Hindu candidate should be declared to have been duly elected unless he secures at least ninety per cent of the Hindu votes polled has nothing to commend it These distinctions and subtleties should have no place in the electoral system, and could only introduce confusion and unreality in the exercise of a franchise already accompanied by many difficulties. Rather than accept such subterfuges I would retain the communal franchise and the separate electorates outright, at least they have the merit of being straightforward, strongly opposed in principle as I am towards them

Naturally the prominence given to the Hindu Moslem controversy has infected other communities The Depressed Classes the non Brahmin, the Indian Christians, the Anglo Indian and the Sikhs, to mention only a few, have all put forward their claims and separate electorates are becoming an obsession

The Depressed Classes

Among the claimants for the protection of a communal franchise the Depressed Classes are prominent They claim a separate franchise and reserved seats on the grounds that the representatives of the Hindu community cannot be trusted to preserve their interests This I believe to be an error In all the Provinces advanced Hindus have during the last fifty years always advocated and worked for the uplift of the Depressed Classes The Bombay Municipality dominated by Hindus has always stood for the education of the Depressed Classes in the City, and that is true of most of the Provinces Admittedly a small section of extremely orthodox Hindus oppose on religious grounds the removal of "untouchability", but in point of fact "untouchability" is at the instance of the leaders of higher castes fast disappearing Only in some of the backward villages of the Deccan, where for historic reasons the Brahmin retains his orthodoxy, is "untouchability" still found The Depressed Classes are governed by Hindu Law and follow the same religion as other Hindus On examination it would I am sure be found that except for the political ambitions raised by the re[...] castes " [...] those ar[...] to be reg[...] and a short cut to political power and office It is sounder statesmanship to assist the movement within the Hindu community to remove "untouchability" and promote the uplift of the De[...]

[...] Depressed Classes have neither the educational qualifications nor the political experience necessary to form useful constituencies

This said, I am however of the opinion that, in order to promote security and contentment certain seats should be reserved for the Depressed Classes in the Legislative Assembly and Provi[...] n the general electorate, [...] ase should they exceed fou[...] the Provincial Council [...] e for five years only Whilst the Hindu Moslem problem is a controversy throughout the length and breadth of India that of the Depressed Classes is more peculiar to Madras It should not be encouraged to assume menacing proportions elsewhere When

joint electorates are universally established, the Depressed Classes will be merged into the general population and it would be an ill service to them to stamp them for ever as Depressed Classes, by singling them out for special treatment

Europeans

The European community is in a unique position amongst the communities claiming special consideration Of a different race and unfamiliar with any Indian language, their interests are, in fact, as well as nominally, distinct from those of the Indians At the same time they fill a great place in Indian commerce and industry and many of them play an honourable part in our public life As they are few in number they cannot exercise an influence on legislation commensurate with their importance unless special representation is arranged for them I am in favour of this being done by reserved seats in the joint electorate

As I have accepted the principle for Mahommedans I recommend that the European community should retain the existing separate electorates and the existing representative strength in the councils for the next five years Thereafter representation should be by reserved seats in the joint electorate It is only just however that when this stage is reached the candidates offering themselves for election should be genuinely representative of the community The best means of attaining this end is, I suggest the formation of a Panel of representative Europeans, and only those whose names are on the Panel will be eligible for election The community will retain in addition, the special constituencies formed by the Chambers of Commerce and the European Association the qualifications of candidates being the same as at present This ultimate merging of the European community *in the general electorate* will bring them into closer touch with India and make for sympathetic and friendly relations

Special Interests

Other classes claiming special consideration are the non Brahmans of the Deccan Labour, the Zemindars, the Anglo Indians the Indian Christians and the Sikhs

Non Brahmins—Of the non Brahmins only the Marathas of the Deccan and Madras have been selected for separate representation *The word non Brahmin is a misnomer* The non Brahmins of Gujarat and Sind the Patidars Banias Amils and others are all classed as Brahmins This shows the artificial nature of a distinction between Brahmins and non Brahmins There was very little antagonism in the Deccan between the Marathas and the Brahmins until the distinction was introduced by the Montagu Chelmsford reforms In Gujarat where no separate representation was given for non Brahmins all the electorates have worked in complete harmony and there is no *sectional antagonism In my view therefore,* no distinction should be made amongst Hindus nor should any seats be reserved for any section of the community

Labour.—The Labouring classes should be adequately represented. Whether this should be through separate electorates, or through the reservation of seats in the general electorate, is a question on which I have an open mind. Generally speaking, I am opposed in principle to the multiplication of separate electorates, and in the case of Labour think it might be difficult to constitute such a body which would function efficiently in the present unorganised condition of the labouring classes. Therefore I recommend that this question should be remitted to the Franchise Committees which will be constituted to deal with the other complicated questions grouped under this head, with a special expression in favour of representation through the general electorate rather than through a special electorate. A "Labourer" should be defined in the statute and only those coming within this category should be qualified to stand for Labour seats. The Labour representatives should be actual manual workers themselves.

Anglo-Indians and Indian Christians.—I think both these classes are ill-advised in seeking to retain separate electorates. I supported my Committee's resolution for reserved seats for Anglo-Indians in Madras, but on reconsideration it appears to me undesirable in their own interests. As these form an intelligent class I do not doubt that, merged in the joint electorates, they will exercise the influence due to their considerable powers. Moreover, they are classed as Indians, and it is only fitting that they should regard themselves as Indians in every sense of the term, and not as a particularist section of the body politic. Every Indian, whatever community he may belong to, has an equal interest in the good government of his Province and of India, and the idea that a man is entitled to enter a Council merely because he is an Anglo Indian, an Indian Christian, Hindu, Mahommedan, or a Sikh, should be emphatically rejected.

Commerce.—The commercial communities, though influential, have no adequate representation in the present system. They should naturally furnish the most experienced and stable elements in the Councils. I recommend that an increased number of seats should be reserved for them. In the larger Presidencies, like Bombay and Bengal, each trade has its organised and regulated Association. These form natural and representative constituencies, and there is no reason why they should not return one member each. Some Associations are predominantly European, others predominantly Indian. At present in some places the European commercial bodies have an undue proportion of seats, in view of the large and growing Indian interests. This should be rectified, and Associations predominantly Indian should have at least an equal number of seats in the Presidencies. I recommend that the proposal of the Madras Government should be modified by increasing the representation of trade and commerce from 5 seats to 6, the additional seat to be given to the South Indian Chamber of Commerce a purely Indian body. That

would give 3 seats to bodies predominantly Indian, and would be as follows —

Madras Chamber of Commerce	2
South Indian Chamber of Commerce	2
Madras Trades Association	1
Piece Goods Merchants Association .	1

In Bombay six seats should be reserved for Indian commerce, and distributed as follows —

Bombay Mill Owners Association	1
Ahmedabad Mill Owners Association	1
Indian Merchants Chamber	1
East India Cotton Association	1
Finance and Banking	1
Seeds Grain and Sugar Merchants, and Piece Goods Merchants Associations	1

My colleagues recommend that 8 seats should be allocated to Indian Commerce and 13 to European commercial bodies in Bengal Whilst recognising the very important industrial and commercial interests under European control in Bengal Indian interests in this field are very large, and in my opinion the number of Indian seats should be increased

In all the other Provinces provision should be made for the reservation of a number of seats adequate to the Indian commercial interests involved

Landholders—Another interest claiming separate electorates is the Landholders They have at present 6 constituencies in Madras where over one third of the land is held in the form of large estates under permanent settlements of various kinds giving rise to important questions of self government Similar conditions obtain in other Provinces I agree that seats should be reserved for Landholders on the present basis but this special representation should not be increased I am however opposed to the proposal that in Bengal all questions connected with the Permanent Settlement should be treated as a Central subject and removed from the control of the Provincial Legislative Council The land question is essentially a provincial matter and the land revenue is a very important element in the finances of the Provinces The removal of so considerable an element of the administration from the jurisdiction of the Legislative Council would be a serious infringement of the responsibility and autonomy of the Province The power reserved to the Governor to veto discriminatory legislation forms ample protection for all who hold land under the Permanent Settlement and none other is required

Universities—I agree that the Universities should retain their seats but the members should be elected by the Senate and not by the graduates

Sikhs—The Sikh question is peculiar to the Punjab , in other Provinces their numbers are inconsiderable No case has been

made out for reservation of seats outside this Province, where they are already established Elsewhere the Sikhs should be merged in the general electorate at once, and in the Punjab at the end of five years

Parsees—It is interesting to notice that the Parsees with a total population of 100,000 have made no claim for communal representation This small community is so well disciplined and advanced everywhere and specially within the city of Bombay where the largest numbers are found, that not only are they represented on every local body but there have been complaints that they get ten times their due share For instance, on the Bombay Legislative Council there are at present from the City of Bombay, four Parsee representatives If they had communal representation based on numbers, they would not be entitled to more than one seat In the mofussil this advanced community enjoys representation far in advance of its numerical strength, and this is due to their culture, their great natural abilities, and their identity with the interests of India as a whole

It is also remarkable that in the Bombay City Municipality, where there are no separate electorates, Hindu and Mahommedan members work in complete harmony, the Mahommedan members are elected by Hindus as well as Mahommedan voters and command the confidence of both.

Finally, on this vexed question I would add that it is of good augury that a halt has at last been called to the growth of communal electorates On the recommendation of Lord Donoughmore's Committee, which enquired into the constitution of Ceylon, communal representation was abolished in the Legislative Council In their Report, the Committee commented on the disintegrating effect of communal representation on the communities so singled out, as instanced by the Muslims in Ceylon, and expressed the opinion that they would be much better off when linked with the other elements in a population, which though diverse in character, had yet a common country and should possess a common national consciousness If according to this authoritative pronouncement, minorities in Ceylon, a backward country politically, are in a better position under joint electorates still stronger is the argument for the abolition of communal electorates in India

I am emphatically of opinion that communalism in India is a passing phase, and communal electorates are no more than a temporary expedient to meet it, and I am confident that with the gradual extinction of separate electorates the present attitude of mutual hostility will pass away and the Indian communities will be fused in one homogeneous, patriotic nation

Women—Several proposals have been put before us to secure the adequate representation of women in the new Councils, amongst them the suggestion that five per cent of the total number of seats should be reserved for them to be filled by joint

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Sikhs —The Sikh question is peculiar to the Punjab in other Provinces their numbers are inconsiderable No case has been

or separate electorates if possible, or otherwise by nomination Everyone must agree on the desirability of the woman's point of view being adequately heard in the new system, especially in that important field of social reform which comes within the purview of legislation But whether this should be done by a fixed reservation of seats regardless of the conditions within the Province itself is another matter Whilst I am not opposed in principle to such reservation of seats in the Provinces which are ripe for it I can see no good, and indeed positive harm, in the obligatory reservation of seats where the social conditions under which they live are ill adjusted to women taking part in public life Nor is it consistent with the general lines of progress which I have outlined that there should be differences between province and province On the whole therefore, I incline to the view that since the emancipation of women is proceeding at a rapid pace in India and many of them are taking a prominent position in our public life, their position is secured by the exercise of the franchise, and that their whole future is more likely to be safeguarded by the obligation of winning their own way in politics as they have done in other countries, rather than by earmarking specific representation for which some parts of India are not ripe

III.—STRUCTURE OF THE PROVINCIAL GOVERNMENTS

With this statement of my conclusions on the general principles which should govern the form of government to be set up in all the Provinces, the way is clear to consider in more detail the actual structure of these administrations Any survey of Indian conditions shows that there is a wide difference between Province and Province and this was clearly brought out in the evidence which we received Provinces like Bombay, Bengal and Madras with their powerful manufacturing industries, their flourishing commerce, their large cities and educated populations with a considerable political tradition behind them have a relatively advanced and complicated social and economic system Others with a predominantly rural population, a less advanced educational system and an undeveloped economic state stand in a different category Consequently there is a natural difference of opinion as to whether one form of constitution is equally applicable to all and as to whether there should not be different forms of administration applicable to the special provincial conditions My first conclusion was that no general system should be proposed but that each Province should be considered by itself and we should seek to frame a special constitution suitable to its special case leaving it to be developed to the full autonomy and responsibility in view in the course of time and with the growth of experience Fuller consideration however has led me to the conclusion that this course would not be wise It would induce jealousy between Province and Province, and for the reasons set out in the general survey I am convinced that no Province

would be content to rest under the stigma that it was not ripe for the constitution proposed for others on the ground that they are politically economically and socially more advanced My recommendation therefore is that the same form of administration should be set up in all the Provinces at the same time fully autonomous and responsible with the whole administration transferred to the control of the Legislative Council including Law and Order I am confident that there will be no danger to the stability of the administration in pursuing this course in the conditions I have outlined to secure the stability of the administration independence of the judiciary and the efficient impartiality of the Police

The keynote of my recommendations being full autonomy and responsibility the first question to be considered is whether there should be one Chamber or two There is a divergence of opinion on this subject and with the establishment of a close approximation to a sovereign Legislative Council the need of a revising and delaying authority will be admitted But whether this should take the form of a second chamber is another question *For a second chamber to be effective and to command authority it must be constituted on different principles from the Legislative Council* It must be derived from wider constituencies based on a higher franchise and drawing its membership from a different class of the community A second chamber either wholly or largely nominated would be out of harmony with the spirit of the constitution and having no tradition behind it would fail to command authority or respect Moreover in the present stage of our political life the field of section for the legislatures is none too large and a two chamber system of administration would probably lead to the impoverishing of the personnel of both Further there is the question of expense *It is desirable to keep the overhead cost of the administration* as low as possible compatible with efficiency and the cost of a second chamber would be *considerable* For all these reasons I am led to the *conclusion* that a second chamber in the Provinces is *neither desirable nor* practicable and that the *functions which it is destined to discharge* can be more appropriately vested in the Governor

At the head of the Provincial Administration will be the Governor This will in the new constitution be a position of even greater power and responsibility than at present It is imperative that the Governor should stand above personalities parties and politics *entirely free from particularist prepossessions* well versed in the parliamentary or public life of a constitutional country It would therefore be most impolitic to narrow the field of selection I am firmly of opinion therefore that for as far ahead as we can see the Governor certainly for the Presidencies, should invariably be drawn from the ranks of Englishmen of experience and position outside the Services who have been trained in the broad *outlook and free institutions*

of Great Britain I am fully conscious of the fact that this opinion is not universally popular in India but in the onerous task which lies before us in the working of the new constitution it seems to me that we should take the widest and most liberal views and call upon all the resources of the Empire by enlisting the ablest of her sons to co operate with us Insistence on the immediate and general appointment of Indian Governors to all the Provinces seems to me to be a narrow view and definitely retrogressive inasmuch as it will confine us to a very limited category in filling offices of such great importance

As I do not propose the establishment of second chambers, the revising and delaying functions exercised by such bodies where they exist will be vested in the Governor and for their efficient discharge he should command the same powers of veto and of certification under reasonable safeguards as are conferred on him under the Government of India Act of 1919 I cannot admit that these powers are either illiberal or anti democratic, some power of veto and in present conditions of securing the passage of legislation essential to peace order and good government must exist and their very existence within the authority of the Governor safeguarded to prevent their despotic exercise will ensure that they will rarely if ever be called into use

Nor can I admit that the continuance of these powers is incompatible with the establishment of a really effective provincial autonomy and responsibility We have to consider them in the light of very great changes proposed in the powers of the Legislative Councils and the structure of the Provincial Governments With the establishment of a powerful controlling Legislature and a Ministry drawn from that Legislature in the Provinces no Governor will use either his veto or power of certification without a sense of paramount necessity because it would antagonise the Council with which he must necessarily work if his administration is to function harmoniously For these reasons I cannot accept the argument that with these powers reserved provincial autonomy and responsibility are unreal

Size of the Council—Owing to varying conditions in the Provinces themselves such as the number of the population the areas of the constituencies the number and variety of the interests to be represented there is a considerable difference between the size of the Legislative Councils It is desirable to increase the size of these Councils without making them unwieldy and to expand the representation in order to carve out new constituencies and give the system elasticity These ends will be attained by providing for a general increase in the strength of the Councils of about twenty five per cent

The Official Bloc—With the advent of responsible government and the transfer of all subjects the official *blocs* in all the Legislative Councils will naturally disappear It may

however be desirable to make provision for the services of experts when particular measures are under discussion The most appropriate field for the employment of such experts is as witnesses before, or even members of, the Select Committees to which such measures will be referred in the ordinary course of legislation But if it is found desirable to reserve seats for them in the Councils, they should be present in an advisory capacity only and not as members with voting rights It would be inconsistent with the principle of responsible government if such experts had the power through the vote to determine the course of legislation for which the Cabinet alone should be responsible

Formation of the Ministry—The Governor will select the Chief Minister from the Party in a majority in the Council The remaining Ministers forming the Cabinet will be appointed by the Governor, on the recommendation of the Chief Minister, and together will form a Cabinet with joint responsibility. Nothing should be allowed to impair this principle of joint responsibility There should be no reservation of any portfolio for any Minister of any class or minority For instance, to make statutory provision for the appointment of a Mohammedan, or a Sikh, or a non Brahmin or a representative of the Depressed Classes in the Ministry, would be totally incompatible with the principle of joint responsibility, and would carry the principle of communal representation right into the Ministry with all its destructive consequences

Distribution of Business—The distribution of portfolios will rest with the Chief Minister, and the rules for the transaction of business and amendments thereto will be framed by the Cabinet and approved by the Governor

The President—The Legislative Council will elect its own President from among themselves

To sum up —

Executive Council—The Government will rest in a Governor appointed by the Crown and a Cabinet of Ministers

Salaries of Ministers—Ministers will be paid a salary which will be voted by the Legislative Council, and which may be varied within certain limits

President of the Cabinet—The Prime Minister will be President of the Cabinet

Secretary to the Cabinet—There will be an official Secretary to the Cabinet, under the control of the Chief Minister

Resignation of the Ministry—In considering the relation of the Ministry to the Legislative Council, there is a two fold objective The first is that the Ministry shall be effectively responsible to the Council, and shall not remain in office after it has exhausted its mandate, or ceased to command the confidence of the electorate The second is that it should be a

stable administration not susceptible of being thrown from office by a fortuitous combination of individuals or groups against it There should therefore be no obligation on the Ministry to resign if it is defeated on an ordinary administrative measure, or fails to carry any legislative measure which it introduces The question whether or not resignation should follow such defeat or failure should be left to the discretion of the Chief Minister Nor should any direct vote of no confidence be permitted without adequate notice On the other hand if after such notice and adequate debate a vote of no confidence be carried against the Ministry it should have binding effect necessitating the resignation of the whole Ministry I have given careful consideration to the proposal that in order to secure stability and continuity in the administration a no confidence vote to be mandatory should command a vote of two thirds of the Council as a whole The balance of argument seems to me to be against it One effect of such provision would probably be that by the manœuvring of groups a Ministry could retain office after it had exhausted its mandate and thus defeat the object of the reforms The community will be further protected against the danger of a Ministry hanging to office after it has lost its authority by the limitations on the life of the Legislative Council the Ministry will go out of office when the Council is dissolved the power of dissolution will be vested in the Governor

Life of the Council—The life of the Legislative Councils should be four years instead of three as at present Three years is too short a period for the efficient working of a legislative body, very soon after it has settled down to work it is unsettled by the imminence of an election Triennial elections are costly and unnecessary On the other hand the life of the Councils should not be prolonged after they have ceased to reflect public opinion The British Parliament is elected for five years the legislatures of the United States of America France Germany and Canada for four years Four years therefore suggests itself as the most convenient period for the life of our Legislative Councils

Inter Provincial Relations—In a country like India where the border districts of the different Provinces abut on each other and are sometimes interlaced questions must arise where the actions of one Provincial Government materially affect the interests of its neighbour Where these are of minor importance the Provincial Governments concerned will deal directly with each other as they do at present and only when they are unable to agree will the matter in dispute be admitted to the arbitrament of the Viceroy When grave issues arise however the aggrieved Province will appeal direct to the Viceroy For the discharge of these sovereign functions it is necessary to vest in the Viceroy unrestricted power to interfere even over the head of the Governor and the Ministry when the

interests of a Province are gravely affected or when questions of all India concern arise In cases of supreme importance to India as a whole, such as the break down of authority in any Province, the Viceroy should even have the power to supersede the defaulting Local Government and to carry on the administration himself until a stable government is re established within the Province

Finance—With the establishment of autonomy and responsibility in the Provinces the present financial relations between the Central and the Provincial Governments will stand in need of revision For the principal growing sources of revenue, i e, Income Tax Customs Railways etc, are vested in the Government of India whilst the growing heads of expenditure i e, education public health and industrial development are charges on the Provinces Many of the Provincial Governments are inadequately provided with the funds necessary for the discharge of these obligations nor have they under their own control untapped sources of taxation which by any ingenuity can furnish the large sums necessary to support these nation building activities

In these circumstances it is clear that the Provincial Governments will have to look to the Government of India for grants from these growing heads of revenue which admittedly are central in their character, for the funds they must have if they are to discharge their heavy responsibilities The question is too complicated to be settled by the *obiter dicta* of any individual, and needs exhaustive examination I propose the appointment of a small committee one member appointed by the Secretary of State a second by the Government of India and the third by the Province concerned to allocate to each Provincial Government a share of the Central Revenues proportionate to its needs This method of financing the Provinces i e by grants from the Central Government is necessitated by a study of the financial organisation of British India The sources of revenue indicated above—Income Tax Customs Railways etc —are definitely central or federal in their nature They are the natural prerogative of the Central Government because amongst other reasons the taxes are not necessarily paid by people within the Province where they originate Moreover it is of paramount importance to ensure that they are evenly collected wherever they are garnered it would be intolerably unjust if there was one standard of Income Tax or Customs collection in Bengal and another in Bombay, such iniquities have existed in the past and they must not be revived For many reasons therefore I am entirely unable to accept the proposal that the Provinces should retain the whole of the revenues collected within their borders and pay to the Government of India such portion as may be decided upon All India taxes must be collected by and appertain to the Central Government the Provinces receiving therefrom assignments according to their

needs, determined in the manner aforesaid Nor could we visualise with equanimity a Province being in a position to withhold from the Central Government its share of the revenues, and thereby forcing it into surrender by financial starvation, or impose it the unpleasant necessity of collecting its share by force

Education—The question of adequate finance for the Provincial Governments is one of paramount importance when we turn to the subject of education Everyone is agreed that the facilities for education, especially primary education, should be extended as rapidly as possible The problem of mass education in India is largely a rural one Only 12 per cent of the population live in the towns as compared with 79 per cent in England and Wales, 51 per cent in the United States of America, 42 per cent in France, and 45 per cent in Germany In British India 74 per cent of the population is dependent on agriculture for its livelihood, 10 per cent on industries and $5\frac{1}{2}$ per cent on trade There are only 29 cities with a population of 100,000 and over, and the number of villages is in the neighbourhood of half a million

Education in the towns is comparatively easy to organise, and it is substantially a question of funds On the other hand in the rural areas many difficulties exist The majority of parents are poor and illiterate themselves There are indifferent means of communication, epidemics and seasonal illnesses interfere with the continuity of the work, there are numerous languages, religions and castes Faced with these difficulties the progress made is disappointing According to the census of 1921 the percentage of literates of both sexes and of all ages was only 7 2 It does not follow, of course, that the illiterate are incapable of managing their own affairs, there is a great volume of shrewdness and practicability amongst them But an illiterate community is an unsubstantial foundation on which to build a democratic State, and the rapid spread of education is essential to the functioning of our new institutions

Interest in education is increasing In 1917 the total expenditure, direct and indirect, under this head was a little over 11 crores of rupees By 1927 this sum had increased by over 117 per cent to Rs 24 5 crores This is evidence that the country is willing enough to make sacrifices for the cause of education, and most of the Provincial Governments are active in developing their policy

This survey shows that the demand for immediate and compulsory primary education sometimes put forward is an ideal, rather than a question of practical politics Nevertheless there is abundant scope for progress within the present system The *first step is to check the present wastage* Statistics show that an increase in the number of schools produces no proportionate increase in literacy, for only a small number of the first year pupils reach Standard Four, when they can be considered

literate The Secondary Schools are not in a much better position if the large number of failures at the Matriculation examinations are any criterion From this it follows that the present measures should be directed to improvements within the present system and especially to checking the wastage which leads to such inadequate results from the present expenditure

I recommend that special schools should be started for the Depressed Classes and a special grant made for the purpose They would thus be encouraged to raise themselves through education and to take their full place in the community At present when they are allowed to attend the existing schools their position is often made one of difficulty through ostracism by the other children

But I see no occasion for special and separate schools for the Mohammedans There are at present over 37 000 such schools of which 21 000 are in Bengal The Mohammedan community gains no advantage from this system whilst the number of schools is disproportionately large in relation to the population, the pupils tend to drop out in an excessive degree in the higher standards It is of importance to note in this connection that in the Punjab where no reservations are made for Mohammedans in the ordinary schools the number of Mohammedan pupils rose from 160 000 in 1917 to 517 000 in 1927

IV —The Central Government

In the preceding pages I have adumbrated my conclusions on the changes necessary in the structure of the Provincial Governments Turning to the Central Government, certain evidence has been put before us to the effect that this should be left substantially untouched—that autonomy and responsibility in the Provinces should be left to "find themselves" before the reconstruction of the Government of India is attempted This reasoning I am entirely unable to accept It has been said and with a considerable measure of truth that any constitution will function if behind it there is the will to work it on the other hand the best constitution devised by the wit of man will fail if it lacks the driving force of the will to work it If for no other reason, it is imperative to mobilise behind the new constitution behind the Government of India no less than behind the Provinces, the will to work it in all men of reasonable views In the introductory passages to this report I have sketched the driving forces in Indian politics They are the irresistible surge towards self government within the Empire the almost passionate desire for full Dominion status if not immediately then within a brief period of years From the influence of these forces the Central Government cannot remain immune even with the establishment of responsibility in the Provinces Even men of the most conservative views are bent on the development of the Central Government in the direction of the establishment

of full responsibility Whilst the natural aspirations remain unsatisfied men of the most moderate views will not react whole heartedly to the side of the Government There is in India a large body of politically minded people who have faith in the British connection and who desire the ordered development of India within the orbit of the Commonwealth But faced by what they regard as the imponderability of the Government, they are at best drifting into an attitude of aloofness from participation in the government at worst into a state of complete hostility If that large element in Indian public life which represents in the true sense the Liberal position is not enlisted in support of the constitutional changes proposed, then the growing influence of extremism will drive them out of politics altogether and the political future of India will become a matter of the gravest concern Reforms therefore which do not embody a very substantial measure of responsibility in the Central Government, with the assurance of complete responsibility within a specified period, will be still born, they can have no firm basis in popular approval, and must limp forward to confusion

In addition to these general considerations impelling the introduction of responsibility in the Central Government there are two others of considerable force We are aiming at full responsibility in the Provinces, and at the same time in the scheme outlined in the preceding pages I have recommended that the Government of Inda shall have an over riding authority, even to the extent of temporarily superseding the Provincial Government if necessary in the interests of the country as a whole Now this measure of responsibility in the Provinces, under such conditions is *completely incompatible with the existence of a Central* Government as at present constituted, non responsible to the legislatures in every branch of its functions The existence of responsibility in the Provinces necessarily connotes the establishment of responsibility in the Central Government, with its custody of All India affairs and ultimate authority over the Provinces in which self governing institutions are to be set up

The second consideration arises from any survey of the working of the Government of India Act since 1919 Nowhere have the disadvantages of the system of unlimited powers of criticism and substantial powers of obstruction in the legislatures without any chastening sense of responsibility been more apparent We have seen witnesses of the Government of India criticised, attacked and often defeated in the legislatures whilst none of their critics has been charged with the necessity of accepting responsibility for the barbs launched at those in authority This is damaging to those in power and equally damaging to those in the Legislatures It prejudices the prestige of the Government itself, and it induces in legislators a sense of comparative indifference to the political effect of the charges which they make

For all these reasons I am convinced that a drastic change of the Government of India is an imperative necessity, and that this

change should take the form, with proper safeguards, of the fullest practicable measure of responsibility. At the same time, I recognise that there are three branches of the administration where it is desirable to hasten slowly; they are Defence, Foreign Affairs and the relations between British India and the Indian States. I recommend that these three subjects should be "reserved" for a limited period, to be embodied in the statute, and that all other branches of the administration should be fully transferred to the control of the legislatures.

But this reservation needs to be qualified by one condition. There is a strong feeling in India to-day that the burden of military expenditure is unduly heavy in the changed world conditions, and the almost universal desire for a reduction in armaments, and that it is disproportionate to the financial resources of the country. There is one charge in particular which is unanimously regarded as unjustifiable by Indian opinion, namely the capitation charges on British recruits for India. The Military Budget is approximately fifty five crores of rupees. Of that sum we may take the round figure of fifty crores as absolutely necessary so long as the present responsibilities are imposed on ... so long as the Frontier position remains ... is. I recommend therefore that ... be "Reserved". It should however be a statutory obligation on the Military Authorities to reduce their expenditure by five crores of rupees during the next seven years. Economy with efficiency is more likely to be secured by leaving it to the Military Authorities to make this reduction in their own way, and within this period at their own time rather than to carry out the process by arbitrary "cuts" at the discretion of an authority not cognisant of the detailed working of the military machine.

The measures necessary to Indianise the Army in India, and thereby to make the country ripe for that entire responsibility for her own defence which is the necessary accompaniment of Dominion status have already formed the subject of authoritative inquiry by the Skeen Committee, which produced a unanimous report. I am strongly in favour of the scheme there recommended being pressed forward with the least possible delay.

The Army in India, as so constituted, should be the only military body in the country. There is no room, in present conditions, for Provincial Armies or even Provincial Militias. The existence of two bodies of armed men independent of each other and under separate control would inevitably lead to confusion and unnecessary expense; moreover it might, in circumstances which can easily be visualised, become a source of conflict and a danger to peace and order. At a later date, when the Provincial Governments have grown habituated to the exercise of their new powers, it may be desirable to establish provincial militias, on the lines of the British Territorial Force, to act as a second line to the Regular Army and to strengthen the

Local Government in times of emergency But that time is not yet, and if and when it is reached the Provincial Militias should be under the direct control of the Commander in Chief, so as to provide against any division of authority

The Indian Navy is a new Defence Force and there are no established obligations which demand reservation in any circumstances The whole Navy Budget should therefore be made votable by the Legislatures

When Finance is transferred certain charges such as interest on debt sinking funds pay of services the principal of the debt, and other obligatory charges will be first charges on the revenues on the lines of the consolidated fund in Great Britain

Then in regard to the reservation of Foreign Affairs there is an important qualification No commercial treaties with any Power should be ratified unless they have the approval of the Legislatures India is in an increasing degree thinking economically and there is an uneasy feeling that her economic interests have not always been carefully safeguarded in the commercial treaties negotiated by the Imperial Government This apprehension can only be exorcised by bringing commercial treaties under legislative control

But whilst jealous of the right of the Legislatures to protect Indian interests under commercial treaties even whilst Foreign Affairs are reserved I am a strong believer in the policy of Imperial preference as between India and the British Commonwealth The stronger we can make the commercial ties between the nations forming the Commonwealth the stronger can we make the Commonwealth as a whole and each partner in it As an economic unit the Commonwealth can defy the world, separated into isolated units each pursuing a particularist policy, we are subject to the fiscal policies of countries each raising its tariff wall higher and higher against us and within that wall developing manufacturing resources which compete with our industries even in the home market An analysis of the trade conditions of India show that there are few if any branches where British manufactured goods seriously compete with the products of our own people our real competitors come from without the Commonwealth Strongly believing in the protection of our own industries I believe no less strongly in the granting of preference to Empire products within the tariffs necessary for the security of our own manufactures and recommend that the policy of preference should form an integral part of our fiscal system

It will be necessary to re examine the allocation of subjects between the Central Government and the Provincial Government and this should be done by an expert Committee I am of opinion that all subjects not specified as Central shall be deemed to be Provincial

If any difference should arise between a Province and a Governor General as to what constitutes a Provincial or a

Central subject the difference should be referred to a Tribunal consisting of three Chief Justices of the High Court in India whose decision shall be final

With these general remarks I now proceed to indicate my conclusions on the structure of the Central Government and its relations with the Imperial Parliament

The Legislative Assembly

Constitution.—The numbers of the Legislative Assembly should be increased from 113 to 250 The population of British India is approximately 250,000,000 and therefore an Assembly of 250 members will give one member to each million of the population My view is that it is unnecessary and undesirable to make the Assembly over large There is no great leisured class in India and the men of knowledge, experience and capacity are for the most part busied with other affairs The inexorable facts of geography—Delhi is approximately nine hundred miles from the commercial cities—mean that men serving in the Legislatures are withdrawn during the sessions from their ordinary avocations Consequently the number of men of capacity and distinction who can be spared for Council work is comparatively small, and it would be a disservice to India to impose an undue drain upon them, and to starve the Provincial Legislative Councils in order to man the Central Legislature Of these 250 members I recommend that 115 should be elected on the same democratic basis as at present It has been represented that all the members of the Legislative Assembly should be chosen through indirect election in order to secure greater stability I cannot accept this view Every modern democracy regards the direct vote as the bulwark of its rights and privileges Any attempt to supersede it would be regarded with suspicion and hostility and there are the educative advantages in the direct vote to which I have referred in considering the composition of the Provincial Legislative Councils We cannot with reason consider so retrograde a step as abolishing the direct vote which has been established Under the present constitution 104 members are directly elected in my proposals the number would be increased to 115 This increase is suggested so that new seats can be created in order to provide for interests not now represented The re arrangement of the constituencies is a complex matter, which should be remitted to a special committee for examination

It is a matter of reasoned criticism that the complete divorce between the Central Legislatures and the Provincial Legislative Councils set up under the Act of 1919 has not been entirely satisfactory It has withdrawn from the Central Legislature men with a practical knowledge of the working of Government in the Provinces and made it less easy for men of the calibre of those who under the old system were sent to the Central Legislatures from the Provincial Bodies to secure election It is desirable to remedy both these defects, and I propose that 126

members of the Legislative Assembly shall be elected by the Provincial Legislative Councils on a population basis This will establish the direct liaison between the Central Government and the Provincial Bodies which is admittedly desirable and will bring to the Central Legislatures men who have won their spurs in provincial life and have an intimate knowledge of the needs of their own administrations It will secure the presence of a strong element of experience and knowledge which will be a stabilising influence and contribute powerfully to the more efficient working of the Central Legislatures The elections—through the Legislative Councils—should be so arranged that all important interests especially trade commerce and industry, are fairly represented

In the cadre proposed there would then remain nine seats These should be filled by nomination by the Viceroy in order to redress any inequalities revealed by the general elections

The Council of State—The present Council of State consists of 60 members 33 of whom are elected Of the 27 nominated members 20 may be officials and 17 actually are

In the new Council of State the number of members should be increased to 100 in order to establish a fair proportion with the enlarged Legislative Assembly Of these 100 members 66 should be elected substantially by an electorate corresponding to the one now in force The new constituencies as in the case of the Legislative Assembly would be worked out by a special committee appointed for the purpose The remaining 34 members would be nominated by the Viceroy As the official *blocs* in the Legislative Councils will be abolished under these proposals it is desirable to give the official class with their expert knowledge an opportunity of making their voice heard on the affairs of the country I recommend that of the nominated members 6 officials shall be appointed by the Viceroy and shall include the members of the Viceroy's Council and 14 nominated by him on the recommendation of the Provincial Governments The balance of 14 seats will be filled by the Viceroy from the non official members of the community

The Ministry—The Ministry should be constituted on the lines indicated for the Provinces i e a Prime Minister appointed by the Viceroy from the largest Party in the Assembly and five members selected by him No seats should be specifically reserved for the members of any community In all material respects the constitution and working of the Ministry should be on the principles adumbrated for the Provinces the Ministry to have joint responsibility and only to be removed by direct votes of "no confidence" exercised with the measures to secure stability indicated for the Provinces Although the constitution of the Central Government will be dyarchical that should not impair the basic principle of joint responsibility in the Ministry to which all subjects other than those specified are transferred There should be no question

of the Viceroy selecting the Ministers either from within or without the Assembly or acting independently of the Prime Minister. It is essential to my scheme that the Prime Minister alone shall select his Ministers from amongst the members of the Legislature. Only in this way can the vital principle of joint responsibility be established and preserved. The Ministry as so constituted should only be removed by a direct vote of no confidence exercised with the conditions suggested in order to secure stability in the Provincial Governments.

Legislation.—Legislation may be introduced in either the Council of State or the Legislative Assembly, but Money Bills must originate in the Assembly. All Bills must be passed by both Houses and receive the assent of the Viceroy before becoming law. If a case arises where a Bill passed by the Assembly is rejected by the Council of State or vice versa, the Prime Minister may, if he considers it a matter of importance, convene a joint session of both Houses. If the Bill is then passed by a *two-thirds* majority of the Joint Session, it will be sent to the Viceroy for his approval.

The Viceroy.—The Viceroy should continue to be appointed by the Crown as heretofore.

Under the recommendations I have made three branches of the administration will be reserved for the period prescribed in the statute—Defence (other than the Indian Navy), Foreign Affairs, and relations between British India and the Indian States. These should, during such period, be administered by the Viceroy with the assistance of an Executive Council of three members, each in charge of one of these departments.

I fully recognise that during this transition stage until responsibility is established in all branches of the administration, the Viceroy's Executive Council will be responsible to the Viceroy only, and through him to the Secretary of State and the Imperial Parliament. The Executive Council and the Ministry will work independently but they should not unnecessarily be framed in watertight compartments. For instance, it is not necessary that the Executive Council should sit in the presence of the Cabinet though the Viceroy should be free to invite the Prime Minister alone, or the Prime Minister and his colleagues, to be present at special sittings on the precedent of the Committee of Imperial Defence. Similarly the Viceroy and his Executive Council should not have the right to be present at sittings of the Ministry, except by invitation. Inevitably the relations of the Executive Council with the Ministry will be delicate but that is no reason why they should not be harmonious. We have a right to assume that both the Executive Council and the Ministry will be animated by a desire to make the system work, and given good-will on both sides, we should confidently assume that it will function harmoniously for the better government of India. If

goodwill and confidence are lacking neither this nor any other constitution will operate Obviously there must be some method of communication and consultation between the two authorities and I have no doubt that conventions will be established to this end

The powers reserved to the Viceroy and Governor General in the Act of 1919 should remain intact I regard this as essential to the working of the advanced responsible democratic constitution recommended in the foregoing pages

The India Office—It is clear that such great changes in the constitution of the Government of India must connote corresponding changes in the position of the Secretary of State for India the Secretary of State's Council and the control which Parliament exercises through him over the Government of India There will be no place in the new fabric for the Secretary of State's Council Presumed to be a body of men of great administrative experience and first hand knowledge of India to advise the Secretary of State on certain matters specified by statute and to safeguard in certain particulars the revenues of India for which the Secretary of State is responsible it has outlived its usefulness As Finance is under my proposals to be transferred to the Central Legislatures that part of the work of the India Office will disappear The Agency work of the Government of India is now transacted by the High Commissioner The presence of a body of expert advisers to the Secretary of State in London behind the largely responsible Government to be established in India is at complete variance with the whole principle of the reforms indicated and without entering into any criticism of the India Council and its peculiar relations with the Secretary of State I am of opinion that it is an essential part of the new system that the Council should be abolished

But I am in favour of the present retention by the Secretary of State of the over riding powers which he as the representative of Parliament now possesses Further it should be open to any member of the All India Services and to officers of the Indian Army to appeal directly to him when they feel that they have a strong grievance These powers however should be exercised only in matters of Imperial concern and not to interfere in the ordinary routine of Indian administration As each step forward to full Dominion status is taken so should the interference of the Secretary of State for India in Indian affairs be reduced until his position ultimately approximates to that of Secretary of State for the Dominions

It has been suggested that the Under Secretary of State should always be an Indian and a member of the British Parliament In my view that is both impracticable and unnecessary Owing to the impossibility of arranging for his election by a British constitution the Under Secretary would have to be

created a British peer That would bring no advantage to India The position of Under Secretary carries no power or responsibilities and the holder of that position would certainly not be considered as in any way an adviser to the Secretary of State

To sum up my proposals for the Central Government are —

(1) That the Legislative Assembly shall consist of 250 members

(2) That 115 members shall be elected on the existing franchise with separate electorates as at present that is to say Mahommedans and Europeans may be allowed communal representation on the present scale for five years after which period the Mahommedans will obtain a reservation of seats on a population basis in joint electorates and European candidates chosen from a Panel, will have reserved seats on their present strength in joint electorates There shall also be a reservation of seats for the Depressed Classes and Labour as in the Provinces The seats reserved for the Depressed Classes should be increased from their present number of 1 to 10 thus giving them 4 per cent of the total number of seats and for Labour reserved seats should be increased from 1 to 4 There is no case for giving separate electorates or reserved seats to Sikhs in the Assembly They are Hindus governed by Hindu Law with no special political aims apart from the rest of the community Neither should any seats in the Assembly be reserved for women, though they should not be debarred from taking their seats should they secure election

(3) That indirect election shall be introduced in the following manner 126 members to be elected by the Provincial Councils the members to be allocated between them in proportion to the number of the adult populations of their respective Provinces These members shall include the representatives of commercial and industrial bodies landed and agricultural interests in each Province the Provincial Councils acting as electoral colleges for all of them A Committee appointed by the present Government of India will decide on the allocation of seats between the Provinces and between the communities on *the lines indicated* earlier, and also on the number of seats to be allotted to the various commercial and industrial bodies landed and agricultural interests in each Province

(4) That the remaining nine members shall be nominated by the Viceroy in order to remove inequalities in constituencies as between communities and other interests

(5) That the term of the Assembly shall be four years instead of three as at present

(6) That the President of the Assembly shall be elected by the Members from amongst themselves

(7) That Bills shall be passed by a bare majority

(8) That the Council of State shall consist of 100 members

(9) That 66 of these shall be elected on the existing franchise and with the same provisions regarding communities and interests as for the Assembly

(10) That 34 members shall be nominated by the Viceroy 20 of whom shall be officials Of these 20 the Viceroy will nominate —

(a) 14 on the recommendations of the Provincial Governments

(b) the members of the Viceroy s Council

(c) the remaining members at his discretion

The other 14 members will be nominated by the Viceroy from non official members of the whole community

(11) That the Executive shall consist of five members chosen by the Prime Minister from Members of the Legislative Assembly following the principle laid down for Provincial Governments and there shall be joint responsibility

(12) That all Bills must be passed by both Houses and receive the assent of the Viceroy In cases where Bills passed by the Assembly are thrown out by the Council of State the Prime Minister may if he considers the matter of sufficient importance call a joint sitting of both Houses If the Bill is then passed by a two thirds majority it may be sent to the Viceroy for his assent The Viceroy will have the power of veto

(13) That Ministers shall be able to speak in either House

(14) That the Viceroy shall be appointed by the Crown as at present

(15) That the Viceroy s Council shall consist of Members with portfolios of the Reserved subjects—Foreign Political and Defence Until these subjects are finally transferred the Viceroy s Council will be in the position of a Cabinet responsible to the Viceroy only

(16) That the members of the Viceroy s Council shall be Members of the Council of State with power to speak in the Assembly

The Privy Council—In the passages outlining the constitution and functions of the Provincial Governments I have indicated my views on the paramount necessity of preserving the independence of the judiciary by placing it under the jurisdiction of the High Courts and through them making the jurisdiction directly responsible to the Crown I cannot too strongly emphasise this recommendation which is one of the cardinal points of my proposals I am in favour of the retention of the right of appeal to the Privy Council under this

system for there is no doubt that the Council is the greatest tribunal of law in the world The objections raised to these appeals are chiefly on the ground of expense but we should expect the number of appeals to be gradually reduced and to be confined to major cases only instead of the wide use of this right which is now practised

The Services—The future of the Indian Civil Service, of the All India Police and their position in the administration remain to be considered Few will be found to challenge the opinion that the Indian Civil Service has rendered great services to the country for over a century It has given the country the support of a *corps d'elite* of able men, dominated by the high st sense of duty and rectitude devoted to their work and stamped by the highest ideals It is to their work that we owe the existence of an administrative fabric so efficient that the transfer to responsible and autonomous government can be confidently contemplated The most noteworthy characteristic of the Civil Services is their loyalty to the government as by law established and the members have shown great adaptability in accepting and working the transfer of power embodied in the Act of 1919 Indeed, I might go so far as to say that the smooth working of the Reforms where they have been most successful could not have been obtained without the skilled and efficient co operation of the All India Services with Ministers Moreover there are great advantages in All India Services The wider scope for service held out, and the better emoluments which naturally go with these responsible positions, have attracted to the Services men of high character as well as of exceptional ability We could not hope to enlist the co operation of men of equal calibre in purely Provincial Services, with their necessarily narrower scope All experience in India goes to show that small Services never reach the efficiency nor establish the *esprit de corps* of All India Services and English experience also proves that even in specialised Departments, like the Post Office, the administration gains in vigour and outlook from the infusion of an element drawn from the Senior Civil Service

I therefore recommend that whilst adhering to the programme laid down by the Lee Commisson for their Indianisation, the two Security Services, viz the Indian Civil Service and the Indian Police, should be retained and remain All India Services as at present, also that the higher posts in the Provinces should continue to be manned as at present from them But in order to ensure that a Minister should be able to reckon confidently on having his policy executed by the Permanent Officials as in Great Britain the Governor should have the power, on the recommendation of a Minister, to replace a member of All India Service by another drawn from the same Service, if and when the Permanent Official finds

himself at serious variance with the policy of the Minister or if he fails to co operate harmoniously with him

Two objections have been urged against this proposal—one being the difficulty of finding employment for the official transferred and the other the possibility that no Member of the Services might be forthcoming to fill the vacancy I do not consider that there is any real weight in either objection Transfers of officials from one post to another are matters of frequent occurrence for divers reasons indeed they are the ordinary events in official life and are sometimes so common that they arouse protest Certainly I do not discern in this argument any sufficient cause to outweigh the manifest advantages to the administration from an infusion of All India officials to which I have alluded above

The All India Services have attracted men of the highest attainments because they have felt that once their Covenant was sealed their position was secured against all vicissitudes except those arising from serious incapacity or misfeasance on their own part It would be an error reflecting on the personnel of the Services if this confidence were shaken Inasmuch as the majority of the members of these Services will be working in Provincial Governments under responsible Ministers it is essential that they should retain unimpaired their right of appeal to the Viceroy and the Secretary of State direct The Public Services Commission should remain as heretofore and no Provincial Services Commission should be established In short the present statutory rights of the All India Services should be meticulously observed I am satisfied that the autonomy and responsibility of the Provincial Governments will not be impaired by a leaven of All India officials in the administration as they will be working under the orders of Ministers with the right of asking for their transfer if friction arises On the contrary the administration of the Provincial Governments will gain and the task of Ministers will be made easier by the command of the assistance of men of the highest probity and efficiency free from Provincial particularism In addition to the All India Services there must necessarily be certain Provincial Services for the local administration I am emphatically of opinion that in no circumstances should these or any Services b recruited on communal principles or on any other basis other than that of merit and efficiency All Services should be open to all subjects of the Crown irrespective of race class caste or creed efficiency should be the only criterion of governing through selection Communalism and representation should have no place whatsoever in a Service where the only criterion is one of capacity to do the work called for It is in addition most important that the Provincial Government with their new responsibilities should command the services of the best men possible in the ranks of the administration. To introduce irrelevant considerations of race class caste or

creed would not only be a source of unending dispute but utterly destructive of good administration

Sind—The separation of Sind from the Bombay Presidency is undesirable Despite the inexorable facts of geography, leading to a certain isolation from the remainder of the Presidency, Sind shares in the strong provincial patriotism of the Province as a whole and would be still more detached from any other Province to which it might be linked As it has an area of only 47 000 square miles and a population of three and a quarter millions a

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Bombay cadre

However if for any special reason it is decided to separate Sind from the Bombay Presidency I offer no rooted objection, provided that Bombay is relieved of the financial responsibilities it has undertaken for the benefit of that area It would be necessary to ask the Government of India to guarantee the securities of the heavy loans raised for the Sukkur barrage and the complementary irrigation works a small and relatively poor area like Sind could not provide the necessary security, and it would be most unfair to charge it to Bombay if Sind were separated from its jurisdiction

Burma—I do not approve of the separation of Burma from the Indian Empire When confusion in Burma compelled the interference of the British many crores of rupees and many lives were spent in establishing peace and order in that land Ever since the conquest Burma has enjoyed the advantages of the All India Services and of the protection of the Indian Army it has also received the immense benefit of freedom with in the Indian fiscal system The demand for separation I feel sure is mainly political and not economic even though there should be some justification for the complaint that a fair share of the revenues accruing within Burma are not spent within the Province That is no more than a financial adjustment An independent Burma might be followed by a fiscal policy which would be seriously detrimental to Indian commerce and industry and to the important British and Indian commercial interests which have been built up there Moreover Indians fear and not without reason that the independence of Burma would be followed by a policy restrictive of the entry of Indians into the country For all these reasons I am opposed to separation if it were contemplated justice would demand the repayment to India with interest the large sums spent in the pacification of the province

If Burma is not separated from India I recommend that it should be given a constitution on the same lines and under the same conditions as those of the other Provinces Indians in Burma should retain their separate electorates for five years and after that period have reserved seats on a population basis in

Foreign Affairs and Relations with the Indian States, with prudent provision for the reduction of the heavy military expenditure In view of the immense responsibilities of the Government of India I propose the retention of the existing bi cameral system, and the strengthening of the Legislative Assembly by the introduction of a strong representative element from the Provincial Legislative Councils I am also of opinion that stability and good government necessitate the retention of the special powers vested in the Viceroy under the Government of India Act

Finally, I am very definitely of opinion that immediate steps should be taken to deal effectively with the evil of communalism, which is such a serious barrier to our national progress Whilst opposed in principle to all forms of communal representation I am willing to waive those objections in order to alleviate the apprehensions of our Mohammedan fellow citizens for a term of years, so that they may feel full confidence in the new administration I venture to commend these conclusions to the consideration of all who are anxious to serve India, in the hope that they will be considered as a whole, and that even where they do not command agreement they will be accepted as an honest desire to contribute to the happiness prosperity and freedom of our Motherland

KIKABHAI PREMCHAND

London

10th Sept, 1[illegible]

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